

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF**

75-7001-09-15

IN THE
United States Court of Appeals
FOR THE SECOND CIRCUIT

Nos. 75-7001
75-7009
75-7015

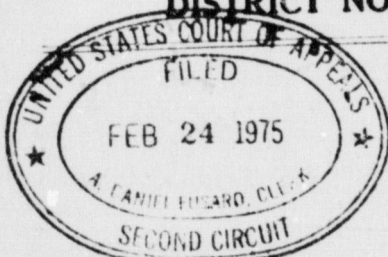
JOHN E. BAKER and GERALDINE S. GEORGE,
Plaintiffs-Appellees,
vs.

REGIONAL HIGH SCHOOL DISTRICT NO. 5, REGIONAL BOARD OF EDUCATION
OF REGIONAL HIGH SCHOOL DISTRICT NO. 5, HENRY W. BENEDICT, HARRY
I. WILSON, SIDNEY SVIRSKY, and JEAN HANNA,
Defendants-Appellants,

MARION P. CROCCO, GEORGE P. DAVIS, JR., JEAN VIRSHUP, LOUIS KUTZNER,
JEAN S. MIDDLETON, FREDERICK STEIGERT, MRS. FRANK GRUSKAY, HERBERT
HERSHENSON, LEONARD LOHNE, DOUGLAS J. SMITH, FREDERICK ROSS and
MARJORIE B. WAHNQUIST,
Defendants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

BRIEF OF DEFENDANTS-APPELLANTS
DISTRICT NO. 5 AND REGIONAL BOARD



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TABLE OF CONTENTS

	PAGE
Preliminary Statement	1
Statement of the Issues	2
Statement of the Case	2
The Proceedings Below	2
Statement of Facts	3
Argument	9
I. The Court Below Erred In Holding That <i>Hadley</i> Required Application Of The "One Person-One Vote" Principle To The Regional Board	9
A. The Method Of Selection Of Members Of Regional Board No. 5 Is Not A "Popular Election"	14
B. The Members Of The Regional Board Do Not Perform "Governmental Functions," As That Term Is Used In <i>Hadley</i>	18
C. <i>Hadley</i> Does Not Apply, In View Of The Unique Arrangement Whereby The Powers Of District No. 5 Are Divided Between The District Meeting And The Regional Board	20
II. Since There Is No "Honest And Actual Antag- onistic Assertion Of Rights" To Be Adjudi- cated, A Safeguard Essential To The Integrity Of The Judicial Process And The Adjudica- tion Of Constitutional Questions, This Cause Must Be Dismissed	23

	PAGE
A. The Suit Should Be Dismissed As Collusive	23
B. The Suit Should Be Dismissed For Failure Of The Town of Orange To Substitute Itself For Or Join With Plaintiffs	26
III. Abstention Is Required Where The Exercise Of Jurisdiction By The Federal Court Would Disrupt A State Administrative Process. Abstention Is Particularly Desirable Here Since It Is Possible That The Court Lacks Jurisdiction, Defenses Against The Town Of Orange May Significantly Affect The Posture Of The Case, The Case Is Not Ripe For Adjudication, And Premature Decision On An Inadequate Record May Have A Severe Impact Upon Important Matters Of State Law	26
IV. The Court Below Erred In Failing To Convene A Three-Judge District Court	28
Conclusion	31
Addendum	32
C.G.S. § § 7-1—7-9d	[380]
C.G.S. § § 10-39—10-63i	[198]
C.G.S. § 10-153d	following [214]

TABLE OF AUTHORITIES CITED

Cases:	PAGE
<i>Abate v. Mundt</i> , 403 U.S. 182 (1971)	11
<i>American Well Works Co. v. Layne</i> , 241 U.S. 257 (1916)	25
<i>Associated Enterprises, Inc. v. Toltec Watershed Improvement District</i> , 410 U.S. 743 (1973)	13, 14
<i>Avery v. Midland County</i> , 390 U.S. 474 (1968)	19, 23
<i>Bancroft v. Shelley Knitting Mills, Inc.</i> , 374 F.2d 28, (3d Cir. 1967)	24
<i>Burford v. Sun Oil Co.</i> , 319 U.S. 315 (1943)	27
<i>Dusch v. Davis</i> , 387 U.S. 112 (1967)	12
<i>Gaffney v. Cummings</i> , 412 U.S. 735 (1973)	10, 11
<i>Giordano v. Amity Regional High School District No. 5</i> , 313 F. Supp. 403 (D. Conn. 1970)	28
<i>Givens v. W. T. Grant Co.</i> , 457 F.2d 612 (2d Cir. 1972)	25
<i>Hadley v. Junior College District of Metropolitan Kansas City</i> , 397 U.S. 50 (1970)	9, 10, 12, 14, 18, 19, 20, 23
<i>Mahon v. Howell</i> , 410 U.S. 315 (1973)	10
<i>Miller's Executors v. Swann</i> , 150 U.S. 132 (1893)	24
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964)	12
<i>Rosenthal v. Bd. of Educ. of Central High School Dist. No. 3</i> , 385 F. Supp. 223 (E.D.N.Y. 1974)	12
<i>Sailors v. Board of Education of the County of Kent</i> , 387 U.S. 105 (1967)	12
<i>Sayler Land Co. v. Tulare Lake Basin Water Storage District</i> , 410 U.S. 719 (1973)	12, 13, 14
<i>Shoshone Mining Co. v. Rutter</i> , 177 U.S. 505 (1900)	25
<i>Snyder v. Harris</i> , 394 U.S. 332 (1968)	25
<i>U. S. v. Johnson</i> , 319 U.S. 302 (1943)	25
<i>Zwickler v. Koota</i> , 389 U.S. 241 (1967)	27

Statutes:**PAGE****Connecticut General Statutes (1958 Rev.)**

§2-32	4, 29
§7-1 <i>et seq.</i>	14, 16
§7-6	5, 6, 20, 21, 22
§7-7	16, 17
§9-1 <i>et seq.</i>	14, 15, 16, 17
§9-1	16, 17
§10-4	7
§10-4a	7
§10-15	7
§10-16	7
§10-18	7
§10-19	7
§10-23	7
§10-24	7
§10-39 <i>et seq.</i>	3
§10-45	22
§10-46	14, 15, 16, 17, 30
§10-47	22
§10-47b	22
§10-47c	6, 8, 20, 22, 27, 28
§10-51	5, 6, 19, 21
§10-51a	6, 20
§10-56	6, 20, 22
§10-60	6, 22
§10-153d	5, 6, 22
§10-282 <i>et seq.</i>	7

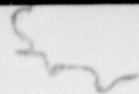
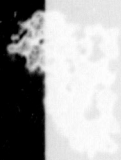
Connecticut Special Acts:

No. 428, 1937	4, 30
No. 165, 1939	4, 30

	PAGE
No. 322, 1947	4, 30
No. 142, 1953	4, 29
No. 199, 1959	4, 30
No. 405, 1959	4, 30
No. 360, 1967	4, 30
No. 74-69, 1974	4, 8, 15, 29, 30
Federal Rules of Civil Procedure, Rule 17(a)	26
28 U.S.C. §1359	25
28 U.S.C. §2281	28

Others:

1 Moore's Federal Practice ¶C 60[4] p. 610 (2d ed. 1974)	24
2A Moore's Federal Practice ¶8.07[2]n.2	24
Note on Feigned Cases, Hart & Wechsler's The Federal Courts and The Federal System 104-107 (2d ed. 1973)	26
The Supreme Court, 1972 Term, 87 Harv. L. Rev. 57	11, 14



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BRIEF OF DEFENDANTS-APPELLANTS
DISTRICT NO. 5 AND REGIONAL BOARD

PRELIMINARY STATEMENT

The decision appealed from was rendered by Judge Jon
O. Newman. It has not been reported.

STATEMENT OF THE ISSUES

1. Did the court below err in holding that the "one person-one vote" principle applies to the election of members of the defendant Regional Board of Education?
2. Did the court below err in failing to dismiss the case, to abstain, or to convene a three-judge court?

STATEMENT OF THE CASE

The Proceedings Below

This is an action seeking application of the "one person-one vote" principle to the Regional Board of Education of Regional High School District No. 5, which comprises the towns of Bethany, Orange, and Woodbridge. Plaintiffs, who reside in Orange, sought a declaratory judgment that the present apportionment plan for the Regional Board was unconstitutional, an injunction requiring the Regional Board to amend the plan so as to cure the claimed constitutional defect, and additional injunctive relief to curb regular and capital expenditures by District 5 until the Regional Board was reapportioned.

On May 9, 1974, one month after filing their complaint, plaintiffs moved for summary judgment. On May 29, 1974, the Regional Board and District No. 5 took the depositions of plaintiffs, and thereafter moved to amend their previously filed answer so as to add additional special defenses based on facts learned from the depositions. The motion for summary judgment was heard by Judge Newman on June 12, 1974.

On November 22, 1974, Judge Newman filed his memorandum of decision declaring that the apportionment of the Regional Board was unconstitutional but denying injunctive relief. He did not specifically rule on the motion of the Regional Board and District No. 5 to amend their

answer, but considered in his memorandum of decision the additional defenses raised by the amended answer. On January 3, 1975, Judge Newman made a determination and directed judgment in accordance with Rule 54(b), and judgment in favor of plaintiffs on their claim for a declaratory judgment was entered on January 8, 1975. The Regional Board and District No. 5 have appealed.¹

Statement of Facts

Regional High School District No. 5 was formed in 1952-53 by the Towns of Bethany, Orange, and Woodbridge to provide necessary facilities and to administer the education of children in grades seven to twelve of the three towns. It was formed in accordance with the predecessors of what are now sections 10-39 to 10-47 of the Connecticut General Statutes. Bethany, Orange, and Woodbridge established a temporary regional school planning committee which, on October 30, 1952, submitted a report recommending the establishment of a regional high school district by the three towns. At special elections held in November and December of 1952, and January of 1953, the voters of each town overwhelmingly voted in favor of joining with the other two towns and forming the district. (App. pp. 24a-25a)

After approval by the voters, a joint meeting of the Boards of Education of the three towns was held on January 29, 1953. The Bethany and Orange Boards reported that they favored a nine member Regional Board for the District, with three members from each town. A motion incorporating the suggestion was unanimously passed. (App. p. 21a) On February 4, 1953, the establishment of District No. 5 was approved by the State Board of Education. (App. p. 22a)

1. So have defendants Benedict and Svirsky, treasurer and town clerk of Bethany, and defendants Wilson and Hanna, treasurer and town clerk of Woodbridge.

On May 7, 1953, the Governor approved Special Act No. 142 of the 1953 Connecticut General Assembly, which "confirmed, ratified and validated" the "action of the Towns of Bethany, Woodbridge and Orange in establishing a regional school district" and declared "Regional School District No. 5 of the Towns of Bethany, Woodbridge and Orange . . . to be a duly constituted regional school district with all the powers and privileges given to such districts." In addition Special Act No. 74-69 of the 1974 Connecticut General Assembly, approved by the Governor and (by virtue of C.G.S. § 2-32) effective on May 23, 1974, provides as follows:

Notwithstanding the provisions of section 10-46 of the general statutes, with respect to the election of members of regional boards of education, each town in regional high school district number five shall elect one member each year at the annual town meeting of such towns, or at a special town meeting held for the purpose, to serve for a term of three years to commence on the first day of July following such election.

Special Act No. 74-69 effectively fixes the representation of the towns on the Regional Board at three from each town.

There are sixteen regional school districts in the State of Connecticut. (App. facing 40a) There are acts similar to the above acts fixing the representation of the boards of some of these districts. For example: Special Act No. 428 of the 1937 General Assembly, Special Act No. 165 of the 1939 General Assembly, Special Act No. 322 of the 1947 General Assembly, and Special Act No. 405 of the 1959 General Assembly all fix the representation of the board of Regional District No. 1 at one member from each town; Special Act No. 199 of the 1959 General Assembly fixes the representation in District No. 4 at three members from each town; and Special Act No. 360 of the 1967 General Assembly fixes the representation in District No. 9 at four members from each town.

Regional High School District No. 5, like the other regional districts, constitutes a unique arrangement for the providing of education to students from Bethany, Orange, and Woodbridge. Its management is not vested solely in the Regional Board, but is divided between the Regional Board and the District Meeting, which is the legislative body of the Regional School District. (C.G.S. §10-153d)

The District Meeting performs functions often performed by the school board in other states. Every elector of the three towns is eligible to vote at District Meetings (as are certain taxpayers who are not electors) (C.G.S. §7-6)

The District Meeting's most important function is to control the budgetary process for Regional High School District No. 5. The Regional Board, as pointed out in the affidavit of Superintendent Smith, prepares a proposed budget for the school year. This budget is then presented for public hearing at the District Meeting "where any person may recommend the inclusion or deletion of expenditures." (App. p. 35a) Thereafter, it is reviewed by the Board and then presented at the annual meeting of the Regional District which is held on the first Monday or Tuesday of May in each year. At such meeting every elector and eligible taxpayer present may vote to approve or reject it. If it is rejected, as it was in 1974, it must be resubmitted to the District Meeting in the same or revised form until it is eventually approved. (App. pp. 35a-36a; C.G.S. §10-51)

As the Smith and Lohne affidavits point out, this budgetary process effectively controls the program and operations of the Regional District. (App. pp. 35a, 48a-49a) The budget, according to Superintendent Smith, is "[t]he primary document governing the activities and operation of the School District." (App. p. 35a) In 1969, the District Meeting through its control of the budget, approved a major

change in the operation of the high school. (App. pp. 48a-49a) In 1974, the District Meeting, again through its control of the budgetary process, disapproved the introduction of a new industrial arts program into the high school. (App. pp. 36a-37a)

The District Meeting also has the ultimate power to determine levels of faculty compensation and terms and conditions of employment since it has the power to reject any collective bargaining agreement negotiated by the teachers union and the Regional Board. (C.G.S. §10-153d)

Neither the Regional Board nor the District Meeting has the power to levy taxes. After the annual budget is approved by the District Meeting, the Regional Board mathematically calculates the ratios provided for in section 10-51(b) and bills the appropriate amounts to each of the three towns. If any town fails to pay the amount due, section 10-51a of the Connecticut General Statutes provides a method by which ten taxpayers of any of the towns, the Board of Selectmen of a town, the Attorney General of the State of Connecticut, a bond holder, the Regional Board, or the State Board of Education may petition the Superior Court to determine the deficiency and order payment of the amount due.

While the Regional Board may issue bonds, they can only be issued after approval by a referendum held in accordance with the procedure provided for in section 10-47c at which all electors and certain taxpayers of the three towns may vote. (C.G.S. §§ 10-56, 7-6) Other borrowing under section 10-60 requires authorization by the District Meeting.

The power to control the issuance of bonds is often of great significance. "As an example of this, in January, 1971, the Regional Board of Education proposed the construction of a second regional high school to be located in the Town of Orange, with the funds to be provided by the issuance of bonds. The question was put to referendum on

February 9, 1971, and the proposal was defeated, 3,241 votes to 2,497 votes. As a result, the proposed high school in Orange was not constructed." (App. p. 37a)

Additionally, neither the Regional Board nor the District Meeting effectively control other powers or duties of the Board which are sharply limited or specified by statute. Under section 10-4 the State Board of Education is given general supervision and control of the educational interests of the State, as enumerated in section 10-4a. Section 10-15 requires a school year of at least 180 days. Section 10-15 requires the teaching of a specified number of courses. Section 10-16 dictates a minimum school day of four hours of actual school work. Section 10-18 requires the teaching of U. S. history, government, and the duties, responsibilities and rights of citizenship. Section 10-19 requires the teaching of the effects of alcohol, tobacco, and controlled drugs. Section 10-23 requires instruction in highway safety. Section 10-24 requires a course in motor vehicle operation.

Most significant are sections 10-282 through 10-292 which provide for grants to be made by the State Board of Education under section 10-286 to aid in the construction of schools. As the Smith affidavit points out, it would not be possible to undertake a school building project without taking advantage of the state grants. (App. p. 38a) Regional School District No. 5 has taken advantage of such grants. Section 10-294 provides for the review of plans and specifications under sections 10-290d and 10-291, and this review controls the discretion of the Regional Board in the area of design and construction of school buildings. (App. p. 38a)

The Regional Board administers the programs and activities established by the electors of the towns through referenda and the District Meeting. Superintendent Smith's testimony is that "the district meeting, together with the referendum process provided for approval of bond issues,

effectively govern the programs and activities of Regional High School District No. 5, leaving the Regional Board of Education to administer those programs and activities." (App. p. 39a)

The Regional Board is comprised of nine members, three from each town. According to plaintiff Baker, the Town of Orange agreed to such representation for political reasons. "[W]e had to get out of New Haven [schools] and get out fast." (Baker Dep., p. 12.)

If the Regional Board or one of the towns wishes to amend the terms of the regional district plan (which now provides for equal representation on the Regional Board by each town), the legislative body of such town may, pursuant to section 10-47c, request an amendment of the plan.² Upon such request the Board must prepare a report on the proposed amendment, file copies with the State Board of Education and the clerk of each member town, and make copies available to the public at a special District Meeting. After this meeting the Board is to set a date for referendum in each town. If the majority in each town is in favor of the proposed amendment it takes effect immediately.

In his affidavit, Chairman Leonard Lohne of the Regional Board, who has been a member since 1965, and Chairman since July 1, 1973, states that "none of the three towns comprising Regional District No. 5 nor the legislative body of any of those towns has ever requested, in accordance with section 10-47c of the Connecticut General Statutes, an amendment of the plan under which the district operates, and in particular none of the towns or their legislative bodies have ever requested amendment of the plan to reappoint on the Board." (App. p. 49a)

² However Special Act 74-69 of the 1974 General Assembly set out on page 4 of this brief, effectively froze the existing equal representation of the Regional Board.

ARGUMENT

I.

The Court Below Erred In Holding That *Hadley* Required Application Of The "One Person-One Vote" Principle To The Regional Board.

The lynchpin of the District Court's decision is that this case is controlled by *Hadley v. Junior College District of Metropolitan Kansas City*, 397 U.S. 50 (1970). *Hadley* was concerned with whether the "one person-one vote" principle should be applied to the election of the trustees of the Junior College District of Metropolitan Kansas City. The Court held as follows:

We therefore hold today that as a general rule, whenever a state or local government decides to select persons by popular election to perform governmental functions, the Equal Protection Clause of the Fourteenth Amendment requires that each qualified voter must be given an equal opportunity to participate in that election, and when members of an elected body are chosen from separate districts, each district must be established on a basis that will insure, as far as is practicable, that equal numbers of voters can vote for proportionally equal numbers of officials. It is of course possible that there might be some case in which a State elects certain functionaries whose duties are so far removed from normal governmental activities and so disproportionately affect different groups that a popular election in compliance with *Reynolds, supra*, might not be required, but certainly we see nothing in the present case that indicates that the activities of these trustees fit in that category. Education has traditionally been a vital governmental function, and these trustees, whose election the State has opened to all qualified voters, are governmental officials in every relevant sense of that term. 397 U.S. at 56.

A literal reading of *Hadley* might suggest that only two questions need be answered here: (1) are the members of the Regional Board elected by "popular elections?" and (2) do the members of the Regional Board perform "governmental functions?" as such terms are used in *Hadley*, 397 U.S. at 56. However, a third question, which the Court below dealt with to some extent but not fully (App. pp. 58a-60a), is whether *Hadley* applies at all, in view of the unique arrangement provided for under Connecticut law whereby the powers of District No. 5 (and other regional school districts) are divided between the District Meeting, in which all electors and certain taxpayers of Bethany, Orange, and Woodbridge each have one vote, and the Regional Board. These three questions are discussed in subsections A, B, and C below.

A threshold question, however, is whether a literal application of the *Hadley* holding is even possible in light of subsequent Supreme Court decisions. A review of such decisions reveals that the Court recently has permitted much latitude in one person-one vote cases, has departed from sweeping language such as that found in *Hadley*, and has made it clear that it will carefully examine local governmental arrangements to see whether or not they require the application of the principles laid down in *Hadley* which are now being redefined on a case-by-case basis. The Court's movement in this area has been expressed in two lines of decision: reapportionment of state legislatures, and local governmental arrangements.

In the reapportionment of state legislature cases, the Court has eschewed determining effective representation on the basis of a "mere nose count," *Gaffney v. Cummings*, 412 U.S. 735, 749 (1973), and has applied a balancing test which weighs population disparities against rational state policies requiring such disparities. See, e.g., *Mahan v. Howell*, 410 U.S. 315 (1973) (16.4% maximum percentage

deviation held constitutional.) Indeed, in *Gaffney* the Court permitted a deviation to stand even through no state interest was offered in justification for it. *The Supreme Court, 1972 Term*, 87 HARV. L. REV. 57, 91.

In approaching the second line of cases, those involving local governmental arrangements, the Court always applied far less exacting standards. From its earliest decisions it not only tolerated but encouraged deviation from the one person-one vote standard if justified by the need for flexibility and experimentation. The rationale for such disparity of treatment was that "[i]n assessing the constitutionality of various [local government] apportionment plans, we have observed that viable local governments may need considerable flexibility in municipal arrangements if they are to meet changing societal needs, *Sailors v. Board of Education*, 387 U.S. 105, 110-111 (1967), and that a desire to preserve the integrity of political subdivisions may justify an apportionment plan which departs from numerical equality. *Reynolds v. Sims*, *supra* at 578." *Abate v. Mundt*, 403 U.S. 182, 185 (1971).

In *Abate* the Court found that a reapportionment plan with a total deviation from population equality of 11.9% did not violate the Equal Protection Clause of the Fourteenth Amendment. The plan provided for a board of supervisors for Rockland County, New York, composed of eighteen members chosen from five legislative districts which exactly correspond to the county's five constituent towns. "To us," said Mr. Justice Marshall for the Court, "it is significant that Rockland County has long recognized the advantages of having the same individuals occupy the governing positions of both the county and its towns." 403 U.S. at 186.

The Court has distinguished cases such as *Abate* from cases dealing with the apportionment of state legislatures whose decisions affect all of the people of the State. In the

latter cases, application of the one person-one vote standard was held to be imperative since the state legislature was indeed "the only instrument of state government directly representative of [all of] the people." *Reynolds v. Sims*, 377 U.S. 533, 576 (1964).

Consequently, it is not surprising that the Court has gone much further in departing from numerical equality in cases involving local governmental arrangements than it has in cases involving the apportionment of state legislatures. Recent cases indicate that cases such as *Sailors v. Board of Education of the County of Kent*, 387 U.S. 105 (1967) (holding that a county board of education may be chosen by delegates from local boards without regard to the one person-one vote principle), and *Dusch v. Davis*, 387 U.S. 112 (1967) (holding that in elections for a city council an apportionment plan representing a "detente between urban and rural communities" is not invalidated by the one person-one vote principle in spite of residency requirements for seven of eleven council members), are good law and are not undercut by *Hadley*. See *Rosenthal v. Bd. of Educ. of Central High School Dist. No. 3*, 385 F. Supp. 223 (E.D.N.Y. 1974).

In fact, two recent cases severely undercut the rationale which the District Court finds in *Hadley*. In *Salyer Land Co. v. Tulare Lake Basin Water Storage District*, 410 U.S. 719 (1973), the issue was whether the board of directors of a California water storage district must be elected on the basis of the one person-one vote principle. Only landowners were permitted to vote in water storage district general elections and votes in such elections were apportioned according to the assessed valuation of the land. 410 U.S. at 725. The Court held that the district fell within the exceptions laid down in *Hadley*. See 410 U.S. at 728. The dissent argued that all landowners, "large or small, resident or nonresident, lessees or landlords, sharecroppers or owners . . . should have a say" because "irrigation, water

storage, the building of levees, and flood control, implicate the entire community." The case, continued the dissent, "involves the performance of vital and important governmental functions by water districts clothed with much of the paraphernalia of government." 410 U.S. at 738, note omitted. Justice Douglas, speaking for the dissenters, argued that "[m]easured by the *Hadley* test, the Tulare Basin Water Storage District surely performs 'important governmental functions' which 'have sufficient impact throughout the district' to justify the application of the *Avery* principle. * * * Whatever may be the parameters of the exception alluded to in *Avery* and *Hadley*, I cannot conclude that this water storage district escapes the constitutional restraints relative to a franchise within a governmental unit." *Id.* at 740-741.

In *Associated Enterprises, Inc. v. Toltec Watershed Improvement District*, 410 U.S. 743 (1973), the Court found that a plan which permitted only landowners to vote for members of the board of supervisors of the District, and proportionally on the basis of their acreage, was not violative of the Equal Protection Clause of the Fourteenth Amendment. As in *Salyer*, the dissent argued that the District performs "important governmental functions" which "have sufficient impact throughout the district to justify the application of the *Avery* principle. The District may: levy and collect special assessments . . . ; acquire and dispose of property . . . ; exercise the power of eminent domain . . . ; and borrow and issue bonds, . . . —all to exercise flood control." 410 U.S. at 749. "It is inconceivable," continued Justice Douglas for the dissenters, "that a body with the power to destroy a river by damming it and so deprive a watershed of one of its salient environmental assets does not have 'sufficient impact' on the interest of people generally to invoke the principles of *Avery* and *Hadley*." *Id.*

Thus, both the majority of the Court and its dissenting members in *Salyer* and *Toltec* agreed that *Hadley* has been significantly qualified. As pointed out by one commentator, "[g]iven the lack of evidence in *Salyer* for such flexibility, courts in the future may consider *Salyer* precedent for increased judicial deference to state judgments about elections for all local government units, specialized or not." 87 HARV. L. REV. at 104.n.50.

A. The Method Of Selection Of Members Of Regional Board No. 5 Is Not A "Popular Election."

The first inquiry required by *Hadley* is whether or not the members of Regional Board No. 5 are selected by popular election. Section 10-46(a) of the Connecticut General Statutes provides that "The affairs of the regional school district shall be administered by a regional board of education, which shall consist of not fewer than five nor more than nine members. Each member town shall elect at least one member." It then goes on to provide that (after the election of the first members) members of the board shall thereafter be nominated and elected in their respective towns in accordance with either subsection 10-46(b) or 10-46(c), as determined by the legislative body in each town.

Subsections 10-46(b) and 10-46(c) provide for quite different methods of election. Subsection 10-46(b) provides for nomination and election at a town meeting in accordance with Chapter 90 (section 7-1 to 7-9d) of the Connecticut General Statutes. Subsection 10-46(c) provides for nomination and election at a town election in accordance with the provisions of title 9 (sections 9-1 to 9-462), except that section 9-167a (dealing with minority representation) and parts II and III (section 9-175 to 9-224) of Chapter 146 (dealing with election of particular officers and the filing of vacancies) do not apply.

As Judge Newman recognized in footnote 6 of his Memorandum of Decision (App. pp. 65a-66a), each of the towns in District No. 5 elects members to the Regional Board in accordance with section 10-46(b), the town meeting method. (Baker Dep., pp. 18-20) The charter of the Town of Orange, which is attached to the Baker deposition as Exhibit 3 for identification, specifically provides in sections 2.6(d) and 5.20 (pp. 3, 9-10) that members of the regional board of education are to be elected by the town meeting. The Orange charter further provides in section 2.5 (p. 2) that "*Robert's Rules Of Order* shall govern the conduct of the Town Meetings."

The contrast is great between the town meeting method of selecting members of Regional Board No. 5 in use in Orange, Woodbridge, and Bethany, and the town election method provided for as an alternative in subsection 10-46(c) but not in use in any of the three towns.³ The town election method is detailed in title 9 of the Connecticut General Statutes, which consists of almost 500 sections, and provides for the polls to be open from 6:00 a.m. to 8:00 p.m. (§ 9-174), for the use of voting machines (§ 9-238 to § 9-269), except when paper ballots are permitted (§ 9-270 to § 9-306), for election officials and their duties (§ 9-228 to § 9-235a), for the method of canvassing election results and making return thereof (§ 9-307 to § 9-322), for absentee voting (§ 9-134 to § 9-158n), and for appeal of the results (§ 9-328 to § 9-330). Title 9 also provides for nominations and primaries (§ 9-372 to § 9-462), and deals with corrupt election practices (§ 9-333 to § 9-348) and prohibited acts in connection with elections and penalties for

3. In fact, the town election alternative provided for in subsection 10-46(c) is no longer available to Bethany, Orange, and Woodbridge, since Special Act No. 74-69 of the 1974 General Assembly (set out on page 4 of this brief) provides for members of the Regional Board to be elected at town meetings in each of the towns.

violation thereof (§ 9-349 to § 9-368). The election procedures described in title 9 accord with what is generally considered to be a "popular election."

In contrast, the town meeting method, which is provided for in subsection 10-46(b) and is in use in all three towns of District No. 5, is dealt with in sections 7-1 to 7-9d, which comprise Chapter 90 of the Connecticut General Statutes. The conduct of town meetings is described briefly in section 7-7, which provides that "All towns, when lawfully assembled for any purpose other than the election of town officers,⁴ and all societies and other municipal corporations when lawfully assembled, shall choose a moderator to preside at such meetings, unless otherwise provided by law; and, except as otherwise provided by law, all questions arising in such meeting shall be decided in accordance with standard parliamentary practice, and town, societies and municipal corporations may, by ordinance, adopt rules of order for the conduct of their meetings." A town meeting is thus seen to select members of Regional Board No. 5 in a less formal manner, with the meeting being held at a specific time, conducted by a moderator (§ 7-7) in accordance with *Robert's Rules Of Order* (Exhibit 3 to Baker Dep., p.2), with nominations from the floor (Baker Dep., p. 19), the election taking place by voice vote or a show of hands,

4. A town meeting assembled to nominate and elect members of Regional Board No. 5 is not assembled for "the election of town officers;" section 9-1, which is specifically applicable to section 7-7, defines in subsection (f) an "election" as a meeting of electors at which voting machines or paper ballots as provided in sections 9-271 and 9-272 are used, whereas voting machines and paper ballots are not required and used in town meetings (section 7-7); section 9-185 includes members of boards of education as town officers, but is obviously referring to *town* boards of education, not regional boards of education, because (1) sections 9-203 to 9-206 then go on to describe the election of *town* boards of education in more detail, and (2) part II of Chapter 146, which includes section 9-185, is by subsection 10-46(c) inapplicable to the election of regional boards of education.

rather than by voting machines or paper ballots, as provided for in sections 9-238 to 9-306, except upon the petition of two hundred persons in writing at least twenty-four hours in advance of the meeting (§ 7-7). There is no provision for absentee ballots, primaries, or any of the usual election safeguards, as provided in title 9. Selection at a town meeting is not what one thinks of from the term "popular election." Although subsection 10-46(b) speaks of "a town meeting . . . to elect," section 9-1, which defines "election" as "any electors' meeting at which the electors choose public officials by use of voting machines or by paper ballots as provided in sections 9-271 and 9-272," obviously does not include the selection process at a town meeting within the definition, since voting machines or paper ballots are only required at town meetings upon advance petition of two hundred persons (§ 7-7). In fact, the town meeting method of selecting members of the Regional Board is commonly thought of as "appointment," as the plaintiff Baker, who had been a member of the Republican Town Committee of Orange for eighteen years and Republican Town Chairman for ten years (Baker Dep., p. 3), made clear in his deposition:

Q. Now, it is a fact, isn't it, that your claims are based upon your understanding that the board members from Orange are elected as they are from Bethany and from Woodbridge, in the same manner in which you think of electors generally, that is to say—

A. I think they are appointed, Bill. They are nominated and appointed.

Q. That is my point. In other words, your charter provides that at your annual town meeting the membership is appointed and nominated?

A. Nominated.

Q. By the town meeting. Nominations may be made from the floor of the town meeting?

A. Correct. In fact, they are.

(Baker Dep., pp. 18-19)

Mr. Baker's popular understanding that members of the Regional Board are appointed, rather than elected, by the town meeting obviously grows out of the fact that the town meeting is a legislative body, and legislative bodies normally appoint rather than elect. Section 3.2 of the Orange charter (Exhibit 3 to the Baker deposition, p. 4) specifically provides that the legislative power of the Town of Orange is vested in the Board of Selectmen, except for that legislative authority specifically vested in the town meeting by the charter, and as has been previously noted, the charter specifically provides in section 2.6(d) (p. 3) that the town meeting elects members of the Regional Board.

Since the selection of members of the Regional Board is not done by "popular election" as that term is used in *Hadley*, the "one person-one vote" principle does not apply.

B. The Members Of The Regional Board Do Not Perform "Governmental Functions," As That Term Is Used In *Hadley*.

In *Hadley*, the Supreme Court recognized that an analysis of the powers of the trustees was necessary in order to determine whether the "one person-one vote" principle applied. It said:

Appellants argue that since the trustees can levy and collect taxes, issue bonds with certain restrictions, hire and fire teachers, make contracts, collect fees, supervise and discipline students, pass on petitions to annex school districts, acquire property by condemnation, and in general manage the operations of the junior college, their powers are equivalent, for apportionment purposes, to those exercised by the county commissioners in *Avery*. We feel that these powers, while not fully as broad as those of the Midland County Commissioners, certainly show that the trustees perform important governmental functions within the districts, and we think these powers are

general enough and have sufficient impact throughout the district to justify the conclusion that the principle which we applied in *Avery* should also be applied here. 397 U.S. at 53-54

It also described the powers of the county commissioners involved in *Avery v. Midland County*, 390 U.S. 474 (1968):

The Midland County Commissioners established and maintained the county jail, appointed numerous county officials, made contracts, built roads and bridges, administered the county welfare system, performed duties in connection with elections, set the county tax rate, issued bonds, adopted the county budget, built and ran hospitals, airports, and libraries, fixed school district boundaries, established a housing authority, and determined the election districts for county commissioners. 397 U.S. at 53-54 n.6.

The Regional Board has none of the significant powers possessed by the *Hadley* trustees. It has no power to levy and collect taxes. Instead it must follow the procedure set out in section 10-51 of the Connecticut General Statutes. It prepares a proposed budget for the school year. This budget is then presented for public hearing at the District Meeting where "any person may recommend the inclusion or deletion of expenditures." Thereafter, it is reviewed by the Regional Board and then presented at the annual meeting of the Regional District which is held on the first Monday or Tuesday of May in each year. At such meeting every elector present may vote to approve or reject it. If it is rejected, it must be resubmitted to the District Meeting in the same or revised form until it is eventually approved. (C.G.S. § 10-51)

After the budget is approved, the Regional Board calculates the share of each of the member towns, based on the mathematical formula set out in section 10-51(b). Each

town then pays its share. If any town fails to pay its share, the Regional Board, or any of the other persons enumerated in section 10-51a may bring an action against the town for the deficiency.

The Regional Board does not have the power to issue bonds. Section 10-56 of the Connecticut General Statutes provides that the regional school district has the power to issue bonds, but only if the issuance of bonds is approved by referendum in the towns constituting the regional school district in the manner set out in section 10-47c. Section 10-56 further provides that not only electors but also certain taxpayers, as described in section 7-6, may vote at referenda for approval of bond issues, and the question shall be determined by the majority vote of the district as a whole. It is clear from section 10-56 that the power to approve issuance of bonds resides not in the regional board but in the electors and certain taxpayers of the district as a whole.

The Regional Board does not have the power to pass on petitions to annex school districts, as the *Hadley* trustees had. There is simply no provision in the Connecticut General Statutes for the Regional Board to add another town to the regional school district.

Since the powers of the Regional Board are so much less broad than those of the trustees in *Hadley*, the Board does not perform "governmental functions" as that term is used in the *Hadley* holding. As a result, the one person-one vote principle of *Hadley* should not apply.

C. *Hadley* Does Not Apply, In View Of The Unique Arrangement Whereby The Powers of District No. 5 Are Divided Between The District Meeting And The Regional Board.

The most difficult question is whether *Hadley* applies at all, in view of the unique statutory scheme in Connecticut, whereby all important decisions of the Regional School

District are either made by all of the electors of the participating towns or are subject to direct review by them. These arrangements have been discussed earlier in this brief, but will be reviewed here.

The primary document governing the activities and operation of District No. 5 is the annual budget. (App. p. 35a) Under section 10-51 of the Connecticut General Statutes, the budget, while it is prepared by the Regional Board, must be adopted by the District Meeting, where all electors and certain taxpayers of the towns of Bethany, Orange, and Woodbridge each have one vote. (§ 7-6) The adoption of the budget is not a routine process, and the District Meeting does not act as a rubber stamp for the actions of the Regional Board. The original proposed budget for 1974-75 (App. facing 42a) shows the detail in which the proposed budget was presented at the public hearing. After the public hearing the proposed budget was revised, as appears from Exhibit 3 to the affidavit of Smith (App. facing 44a), which shows the revisions on each of the pages in the columns entitled "1974-75 Revised." As the Smith affidavit points out, the budget as revised was voted on by voting machines at a District Meeting, and was rejected. (App. p. 36a) As a result, the Regional Board further revised the proposed budget downward, as is shown in the revision of May 21, 1974 (App. facing 46a) deleting budget items associated with the construction of a relocatable classroom at the senior high school to provide for power mechanics, graphics, art, and home economics. The deletion of this item appears primarily on page 10 of the revised budget of May 21, 1974, in the column captioned "1974-75 Revised." Thus it is seen that it is the District Meeting, not the Regional Board, that determines District No. 5's budget.

A second important area is construction of school buildings. That activity, while included in the powers of the

Regional Board by section 10-47, is effectively controlled either by the District Meeting through the budgetary process if construction funds are to be included in the annual budget, or through the referendum process provided for in section 10-56 if bonds are to be issued. (App. p. 37a) Approval of the issuance of bonds is not done by the District Meeting, but instead is done at a popular referendum at which all electors and certain taxpayers of the three towns are all entitled to vote. The question is determined by the majority of those persons voting in the Regional District as a whole. Therefore, although the approval of a bond issue is not done by the District Meeting, the persons permitted to vote in the referendum are exactly the same persons who are permitted to vote in a District Meeting, that is, all of the electors and certain taxpayers of the three towns. (§ 7-6)

Section 10-60 provides for borrowing by the Regional Board by a method other than through bonds. Such borrowing must be approved by the District Meeting, at which again all electors and certain taxpayers of the three towns may vote.

Another area subject to popular control is that of making basic changes in the plan of the Regional District. Grades may be added or withdrawn from the Regional District in accordance with section 10-47b, which requires a popular referendum under section 10-45 for approval, with the vote in the District as a whole determining the question. (§ 10-47b) Other changes in the plan are provided for under section 10-47c, which also requires a referendum, but with an affirmative vote required in each town for approval.

Another area of responsibility is teachers' salaries. Section 10-153d provides that the District Meeting may reject a collective bargaining agreement between the Regional Board and the teachers, thereby giving all of the electors

and certain taxpayers of District No. 5 a veto power over the Regional Board on that important subject.

Because of the popular control through the District Meeting and through referenda exercised by the electors and certain taxpayers of District No. 5, the distribution of powers between the Regional Board and the people in District No. 5 falls outside of the arrangement considered in *Hadley, Avery*, and other cases dealing with local governmental units. District No. 5 is an example of direct participatory democracy, built directly on the traditions of the New England town meeting. Because of that arrangement, *Hadley* does not apply.

II.

Since There Is No "Honest And Actual Antagonistic Assertion Of Rights" To Be Adjudicated, A Safeguard Essential To The Integrity Of The Judicial Process And The Adjudication Of Constitutional Questions, This Cause Must Be Dismissed.

A. The Suit Should Be Dismissed As Collusive.

Defendants have introduced uncontroverted evidence that this action is a suit by the Town of Orange, and may very well be over the issue of a second high school for that town and not involve the question of representation on the Regional Board at all. Plaintiffs have testified that the town is paying for the suit (Baker Dep., p. 5; George Dep. p. 6), that neither spoke to their counsel prior to institution of the action (Baker Dep. p. 9; George Dep. p. 6), that Mr. Baker did not see the complaint before the action was filed (Baker Dep. p. 9), that Mrs. George could not remember whether she first saw the complaint before or after the action was filed (George Dep. p. 9), that neither have children who attend the Regional High School at the pres-

ent time (George Dep. p. 3; Baker Dep. p. 13), that Mrs. George became a plaintiff because the First Selectman of the Town of Orange and the Chairman of the Democratic Town Committee asked her to become a plaintiff (George Dep. pp. 3-8), that she was "shocked" to be asked (George Dep. p. 5), and that plaintiff Baker, the Republican Town Chairman of Orange (George Dep. p. 3) became a plaintiff because "the town has to have somebody who is complaining, and I am a complainant." (Baker Dep. p. 9). Mr. Baker further testified that he felt "discriminated against" because a second high school has not been built in Orange (Baker Dep. pp. 13-14). Similarly, Mrs. George testified at length in regard to her opposition to an addition to the present high school and her support for a second high school (George Dep. p. 22). Indeed, "[e]ver since 1969, the Town of Orange and a number of its residents, groups, and town officials have sought the construction of a second high school in the Town of Orange. The present first selectman of the Town of Orange has made the obtaining of a second high school for the Town of Orange an issue in recent months." (App. p. 40a)

Because of these facts a federal court should be hesitant to proceed until satisfied that there is indeed a case or controversy before it which it has jurisdiction to hear, and to ensure that its process is not being abused. It is essential in light of the above facts that the court determine the intention with which the litigation is brought. *See Bancroft v. Shelley Knitting Mills, Inc.*, 374 F.2d 28, 32 (3d Cir. 1967).

Federal courts are courts of limited jurisdiction. *See, e.g.*, 1 Moore's Federal Practice ¶ 0.60[4] at p. 610 (2d ed. 1974); 2A Moore's Federal Practice ¶ 8.07[2]n.2. Absent an affirmative grant of jurisdiction from Congress, federal courts do not have jurisdiction over state law claims, *Miller's Executors v. Swann*, 150 U.S. 132, 136-137

(1893), *American Well Works Co. v. Layne*, 241 U.S. 257, 260 (1916) (Holmes, J.), or even federal law claims, *Shoshone Mining Co. v. Rutter*, 177 U.S. 505 (1900).

Because federal courts are courts of limited jurisdiction, they should be especially hesitant to act where jurisdiction is questionable and where their action will interfere with the rightful independence of state and local governments. Cf. *Snyder v. Harris*, 394 U.S. 332, 340-342 (1968).

In *U.S. v. Johnson*, 319 U.S. 302 (1943), the Supreme Court vacated a judgment with instructions to dismiss because plaintiff was a straw man and there was no evidence of a genuine adversary issue between the parties. Plaintiff's affidavit, submitted by the defendant on its motion to dismiss the suit as collusive, showed without contradiction that, *inter alia*, a third party had requested that the suit be instituted, "plaintiff did not employ, pay, or even meet, the attorney who appeared of record in his behalf," and he did not read the complaint filed in his name as plaintiff. 319 U.S. at 303-304.

Under the *Johnson* doctrine the court may dismiss on its own motion. Indeed, it can always, *sua sponte*, raise the jurisdictional issue and dismiss. See, e.g., *Givens v. W. T. Grant Co.*, 457 F.2d 612 (2d Cir. 1972), *vacated on other grounds*, 409 U.S. 56, *modified on other grounds*, 472 F.2d 1039 (1972). Additionally, jurisdiction over this matter is withdrawn by virtue of 28 U.S.C. §1359.

Even if this Court will not dismiss on the basis of defendants' uncontroverted evidence, it should require the District Court to receive evidence on this issue before proceeding to an adjudication which may, if defendants prevail in their claims, prove unnecessary. For, whether termed a question of "ripeness," "standing," "case or controversy," or "abuse of process," a genuine question exists as to exactly what plaintiffs' interest in this litigation is and whether or not the issues are really those stated in the

complaint. See generally *Note on Feigned Cases*, in HART & WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM 104-107 (2d ed. 1973).

For example, recognition of the Town of Orange or its Board of Selectmen as the plaintiff here would permit defendants to raise the question as to whether the Equal Protection Clause of the Fourteenth Amendment has application to the Town or its Board of Selectmen and whether the jurisdictional statutes relied upon the first paragraph of the complaint may be taken advantage of by the Town or its Board of Selectmen.

B. The Suit Should Be Dismissed For Failure Of The Town Of Orange To Substitute Itself For Or Join With Plaintiffs.

Because the Town of Orange is the plaintiff here, as indicated by the Baker and George depositions, the Court should have dismissed the cause for Orange's failure to join plaintiffs or substitute itself for them. See F.R. Civ. P. 17(a).

III.

Abstention Is Required Where The Exercise Of Jurisdiction By The Federal Court Would Disrupt A State Administrative Process. Abstention Is Particularly Desirable Here Since It Is Possible That The Court Lacks Jurisdiction, Defenses Against The Town Of Orange May Significantly Affect The Posture Of The Case, The Case Is Not Ripe For Adjudication, And Premature Decision On An Inadequate Record May Have A Severe Impact Upon Important Matters Of State Law.

The Supreme Court has explained that the policy behind the abstention doctrine is a due regard for the integrity of the sovereignty of the states and a reluctance growing out

of such regard to needlessly adjudicate constitutional issues affecting their sovereignty. See, e.g., *Zwickler v. Koota*, 389 U. S. 241, 250 (1967). Abstention is particularly appropriate here where its use may avoid "the hazard of unsettling some delicate balance in the area of federal-state relationships" and where the exercise of jurisdiction by the federal court would disrupt a state administrative process. *Id.* at pp. 255, 256 (concurring opinion of Mr. Justice Harlan.) Also cf. *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943).

Abstention does not mean dismissal; it means retaining jurisdiction but waiting for the completion of some process which may resolve the controversy and remove the need for determination by the federal court.

Here, the court should abstain and permit the Town of Orange, the real plaintiff, to resort to section 10-47c which provides that the legislative body of any town wishing to amend the terms of a regional district plan may request amendment of the plan by notifying the Regional Board. Upon such request the Regional Board must prepare a report on the proposed amendment, file copies with the state board of education and the clerk of each member town, and make copies available to the public at a special District Meeting. After this meeting the Regional Board is to set a date for a referendum in each town. If the majority in each town is in favor of the proposed amendment it takes effect immediately. None of the towns or their legislative bodies have ever requested amendment of the plan in order to reapportion the Board. (App. 49a)

Abstention is particularly appropriate here. The case is not ripe for adjudication. It is possible that jurisdiction is lacking, that defenses against the Town of Orange may significantly affect the posture of the case, or that issues other than those framed in the complaint are the subject matter of the suit.

It is certain that the District Court's decision if allowed to stand has unknown implications for the viability of section 10-47c. It might also unwittingly interfere with town meetings as they are now known in Connecticut for the district court determined on an inadequate record and without regard to the implications of what it was doing that actions taken at town meetings are "popular elections" and not legislative acts. Under such circumstances failure to abstain, even if arguably predicated on the propriety of not abstaining in the usual civil rights case, constitutes error.

IV.

The Court Below Erred In Failing To Convene A Three-Judge District Court.

By their second defense, these defendants claimed that 28 U.S.C. §2281 required that this case be referred to a three-judge district court. Defendants now claim that the decision below cannot stand because only a three-judge may resolve the issues raised in the complaint.

Judge Timbers decided the same issue in *Giordano v. Amity Regional High School District No. 5*, 313 F. Supp. 403 (D. Conn. 1970). In that case, the plaintiff, who was then a member of the Board of Selectmen of the Town of Orange, had raised the same issues with respect to the apportionment of the Regional Board of Education of Regional High School District No. 5 as are raised in the instant case. Judge Timbers, after a review of the relevant cases, held that a three-judge court was required. The case is even stronger for a three-judge court here.

It does not appear from his opinion that Judge Timbers had before him the information contained in Exhibit 1 to the affidavit of Douglas J. Smith (App. facing p. 40a) which shows that 14 of the 16 regional school districts in the State of Connecticut have regional boards on which there are the same number of members from each of the towns within the district. Only Districts No. 17 and 18 have boards which appear to have been apportioned on the basis of population. The fourteen districts which have equal representation from each town comprise 40 of the 169 towns in Connecticut. It also appears that each of the fourteen districts with equal representation from each town could be argued to have a malapportioned board.

In addition, it does not appear from his opinion that Judge Timbers was aware of Special Act No. 142 of the 1953 General Assembly which "confirmed, ratified and validated" the "action of the Towns of Bethany, Woodbridge and Orange in establishing a regional school district" and declared "Regional School District No. 5 of the Towns of Bethany, Woodbridge and Orange . . . to be a duly constituted regional school district with all the powers and privileges given to such districts." In addition to the 1953 Special Act, there is now Special Act No. 74-69 of the 1974 General Assembly which was approved by the Governor on May 23, 1974 and became effective on that date (by reason of Section 2-32 of the Connecticut General Statutes) which provides as follows:

Notwithstanding the provisions of section 10-46 of the general statutes with respect to the election of members of regional boards of education, each town in regional high school district number five shall elect one member each year at the annual town meeting of such towns, or at a special town meeting held for

the purpose, to serve for a term of three years to commence on the first day of July following such election.

Special Act No. 74-69 effectively fixes by statute the representation of the towns of Bethany, Orange and Woodbridge on the Regional Board at three members from each town. There are similar special acts fixing the representation on the boards of some of the other regional school districts in Connecticut. Thus, Special Act No. 428 of the 1937 General Assembly, Special Act No. 165 of the 1939 General Assembly, Special Act No. 322 of the 1947 General Assembly, and Special Act No. 405 of the 1959 General Assembly all fix the representation on the board of Regional District No. 1 at one member from each town. Special Act No. 199 of the 1959 General Assembly fixes the representation in District No. 4 at three members from each town. Special Act No. 360 of the 1967 General Assembly fixes the representation in District No. 9 at 4 members from each town.

Section 10-46 provides that a regional board of education shall consist of "not fewer than five nor more than nine members. Each member town shall elect at least one member." It is clear from Exhibit 1 to the affidavit of Douglas J. Smith (App. facing p. 40a) that at least in District No. 1 it would be difficult to reapportion the board on a one person-one vote basis within the confines of Section 10-46.

The above recitation demonstrates important State interest in and consistent ratification of a State policy of having equal representation from each town on a regional school board. The Court below erred in failing to convene a three-judge district court.

CONCLUSION

The judgment of the Court below should be reversed, and the case remanded with instructions to dismiss it. Alternatively the Court should be ordered to abstain, or to convene a three-judge Court.

Respectfully submitted,

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ADDENDUM

TITLE 7 MUNICIPALITIES

CHAPTER 90

TOWN AND OTHER COMMUNITY MEETINGS

§ 7-1. Annual and special town meetings

Except as otherwise provided by law, there shall be held in each town, annually, a town meeting for the transaction of business proper to come before such meeting, which meeting shall be designated as the annual town meeting. Special town meetings may be convened when the selectmen deem it necessary, and they shall warn a special town meeting on application of twenty inhabitants qualified to vote in town meetings, such meeting to be held within twenty-one days after receiving such application. Any town meeting may be adjourned from time to time as the interest of the town requires. (1973, P.A. 73-412.)

Vote may be rescinded at subsequent meeting. 34 C. 108. Calling of special meeting for legal purpose is obligatory; immaterial that application names a day. 41 C. 245. Mandamus to compel calling of special meeting; reasonable certainty enough in application. 72 C. 661. 119 C. 209. Mandamus lies for directing selectmen to call town meeting for acceptance of street or public highway. 161 C. 177.

No duty on the selectman to call a meeting pursuant to a petition where object is unlawful, frivolous or improper. 19 CS 486; 19 CS 216.

Sec. 7-2. Ordinance concerning convening of special town meetings. Notwithstanding the provisions of section 7-1, any town may adopt an ordinance, in the manner provided by section 7-157, requiring that a special town meeting be warned by the selectmen on application of at least fifty inhabitants qualified to vote at town meetings, such meeting to be held within twenty-one days after such application is received by the selectmen; provided nothing in this section shall be construed to affect any ordinance legally adopted prior to October 1, 1957. (1953, S. 206d; 1957, P.A. 226, S. 2.)

Sec. 7-3. Warning of town and other meetings. The warning of each town meeting, and of each meeting of a city, borough, school district or other public community or of an ecclesiastical society, shall specify the objects for which such meeting is to be held. Notice of a town meeting shall be given by posting, upon a signpost or other exterior place nearest to the office of the town clerk of such town and at such other place or places as may be designated as hereinafter provided, a printed or written warning signed by the selectmen, or a majority of them, and by publishing a like warning in a newspaper published in such town or having a circulation therein, such posting and such publication to be at least five days previous to holding the meeting, including the day that notice is given and any Sunday and any legal holiday which may intervene between such posting and such publication and the day of holding such meeting, but not including the day of holding such meeting; but any town may, at an annual meeting, designate any other place or places, in addition to the signpost or other exterior place, at which such warnings shall be set up. The selectmen shall, on or before the day of such meeting, cause a copy of each such warning to

be left with the town clerk, who shall record the same. Notice of a meeting of a city or borough shall be given by posting, upon a signpost or other exterior place nearest to the office of the clerk of such city or borough or at such place or places as may be designated by special charter provision, a written or printed warning signed by the mayor or clerk in the case of a city or by the warden or clerk in the case of a borough, and by publishing a like warning in a newspaper published within the limits of such city or borough, or having a circulation therein, at least five days previous to holding the meeting, including the day that notice is given and any Sunday and any legal holiday which may intervene between such posting and such publication and the day of holding such meeting, but not including the day of holding such meeting. (1949 Rev., S. 493; 1953, S. 211d; 1963, P.A. 212.)

Both warning and notice are requisite for legal meeting. 4 D. 62; 5 C. 391; 37 C. 392; 44 C. 157; 52 C. 483; 58 C. 488; 60 C. 165; 121 U. S. 121. Warning is to be affirmatively proved. 8 C. 247. Town clerk's record that meeting was legally warned is prima facie evidence thereof. 25 C. 555; see 121 U. S. 121. The hour of meeting presumed to be a proper hour. 13 C. 227. The notice should fairly state the purpose of meeting. 13 C. 227; 15 C. 327; 36 C. 83; 53 C. 577; 58 C. 488. Town may act within the limits of the warning. 55 C. 245. The statute prescribed method of notice, while by its vote the society prescribed more general notice. Held "that the society vote was merely directory." 15 C. 327. A validating act of the general assembly cures all defects incident to the act validated. 52 C. 45. "Soldier's bounty" validating acts, so held. 32 C. 47; 37 C. 225. Town has no inherent legal powers. 32 C. 47. Warning needs no address, but addressed "to the inhabitants" is valid. 32 C. 47. Clerk's certificate imports verity only as to matters of lawful consideration. 44 C. 158; 51 C. 22. Five days before the meeting means five days before the day of meeting. 51 C. 22. A meeting illegally warned voted a guarantee; a subsequent legal meeting voted "to let conditions of former vote remain as they now stand." Held not to be a ratification. 51 C. 22; see 121 U. S. 121. Town is not estopped by erroneous record of town clerk, as against one acting under it. 51 C. 22. Meeting voted to adjourn "to Wednesday evening." Held to mean the next Wednesday. 52 C. 45. Unless restrictive in terms, a subsequent board of selectmen may carry out the purpose of a vote. 52 C. 498. As to what constitutes an appropriation. 58 C. 486. Town may by acquiescence ratify unauthorized act of selectmen. 59 C. 447. General notice sufficient as to action required by law. 77 C. 197. Notice published in newspaper four days before meeting insufficient. 83 C. 331. Warning to consider water company's proposition in regard to laying water main held to cover vote to contract with company for laying the water main. 97 C. 636. Unnecessary for warning to state number of grand jurors to be elected. 111 C. 341. Cited. 152 C. 237.

Warning advising voters "to determine what is to be done about the addition of a room to the school" did not state of the action taken rescind. Votes passed at a prior meeting authorizing the building of an addition to the school. 11 CS 116.

Sec. 7-4. Record of warning. The person who posts, causes to be published or in any other manner gives notice of the warning for any meeting of a town, city, borough, school district or other public community or of an ecclesiastical society shall make return, in writing, to the person whose duty it is to keep a record of such meeting, showing the notice given of such warning, and such return shall be kept on file and recorded at length with the warning or doings of such meeting. (1949 Rev., S. 494; 1953, S. 212d.)

As to necessity of recording warning, see 121 U. S. 121.

Recorded return of notice of warning best evidence of contents of warning. 97 C. 633.

Town not charged with the neglect of its officers to file sufficient notice of town meeting. 29 CS 59.

Sec. 7-5. Place. In any town, the place of holding town meetings may be determined by a majority of the voters present and voting at any town meeting specially warned and held for that purpose. (1949 Rev., S. 529; 1953, S. 207d.)

See Sec. 9-1.

Sec. 7-6. Eligibility to vote. At any town meeting other than a regular or special town election or at any meeting of any fire, sewer or school district or any other municipal subdivision of any town incorporated by any special act, any person who is an elector of such town may vote and any citizen of the age of eighteen years or more who, jointly or severally, is liable to the town, district or subdivision for taxes assessed against him on an assessment of not less than one thousand dollars on the last-completed grand list of such town, district or subdivision, or who would be so liable if not entitled to an exemption

under subdivision (17), (19), (22), (23), (25) or (26) of section 12-81, may vote, unless restricted by the provisions of any special act relating to such town, district or subdivision. (1949 Rev., S. 496; 1953, 1955, S. 209d; 1963, P.A. 642, S. 5; 1972, P.A. 127, S. 3.)

See Secs. 9-1, 9-360, 9-365.

Freehold estate ratable, but not rated, does not qualify. 2 D. 504.

Requisite value necessary to vote determined without reference to existence of mortgage on the property; where husband and wife are joint owners, each is entitled to vote if assessed value is not less than \$2,000; history of statute reviewed. 19 CS 234.

§ 7-7. Conduct. Petition for vote by ballot or voting machine

All towns, when lawfully assembled for any purpose other than the election of town officers, and all societies and other municipal corporations when lawfully assembled, shall choose a moderator to preside at such meetings, unless otherwise provided by law; and, except as otherwise provided by law, all questions arising in such meetings shall be decided in accordance with standard parliamentary practice, and towns, societies and municipal corporations may, by ordinance, adopt rules of order for the conduct of their meetings. At any such town meeting the moderator shall be chosen from the last-completed registry list of such town. Two hundred or more persons or ten per cent of the total number qualified to vote in the meeting of a town or other municipal corporation, whichever is less, may petition the clerk or secretary of such town or municipal corporation, in writing, at least twenty-four hours prior to any such meeting, requesting that any item or items on the call of such meeting be submitted to the persons qualified to vote in such meeting not less than seven nor more than fourteen days thereafter, on a day to be set by the town meeting or, if the town meeting does not set a date, by the town selectmen, for a vote by paper ballots or by a "Yes" or "No" vote on the voting machines, during the hours between twelve noon and eight p. m.; but any municipality may, by provision of any special act to the contrary notwithstanding, by vote of its legislative body provide for an earlier hour for opening the polls but not earlier than six a. m. The paper ballots or voting machine ballot labels, as the case may be, shall be provided by such clerk or secretary. When such a petition has been filed with such clerk or secretary, the moderator of such meeting, after completion of other business and after reasonable discussion, shall adjourn such meeting and order such vote on such item or items in accordance with the petition; and any item so voted may be rescinded in the same manner. If such moderator resigns or is for any other cause unable to serve as moderator at such adjourned meeting, such clerk or secretary shall serve, or may appoint an elector of such municipality to serve, as moderator of such adjourned meeting. Such clerk or secretary, as the case may be, shall phrase such item or items in a form suitable for printing on such paper ballots or ballot labels. The vote on any item on the call of a town or other municipal corporation shall be taken by paper ballot if so voted at the meeting, if no petition has been filed under this section with reference to such item.

(1973, P.A. 75-467.)

See Sec. 9-1.

Sec. 7-8. Power of moderator. The moderator of any town meeting, and of any meeting of any society or other community lawfully assembled, may, when any disorder arises in the meeting and the offender refuses to submit to his lawful authority, order any proper officer to take him into custody and, if necessary, to remove him from such meeting until he conforms to order or, if need be, until such meeting is closed, and thereupon such officer shall have power

to command all necessary assistance. Any person refusing to assist when commanded shall be liable to the same penalties as for refusing to assist sheriffs and constables in the execution of their duties; but no person commanded to assist shall be deprived of his right to act in the meeting, nor shall the offender be so deprived any longer than he refuses to conform to order. (1949 Rev., S. 521; 1953, S. 213d.)

See Sec. 53a-182.

The enforcement of this provision requires no issue of process. 65 C. 30. Cited. 135 C. 150.

Sec. 7-9. Petitions for vote. Form. Statement by circulator. Whenever under the provisions of the general statutes or any special act, any action for a vote by the electors or voters of a municipality is to be initiated by the petition of such electors or voters, in addition to such other requirements as such statute or special act may impose, such petition shall be on a form prescribed or approved by the clerk of such municipality, and each page of such petition shall contain a statement, signed under penalties of false statement, by the person who circulated the same, setting forth such circulator's name and address, and stating that each person whose name appears on said page signed the same in person in the presence of such circulator, that the circulator either knows each such signer or that the signer satisfactorily identified himself to the circulator and that all the signatures on said page were obtained not earlier than six months prior to the filing of said petition. Any page of a petition which does not contain such a statement by the circulator shall be invalid. Any circulator who makes a false statement in the statement hereinbefore provided shall be subject to the penalty provided for false statement. (1957, P.A. 347; 1971, P.A. 871, S. 58.)

Petition asking for referendum on authorization of bond issue to finance new school complex invalid because of failure to comply with section. 28 CS 295.

Sec. 7-9a. Circulation of petition for vote at town meeting. No petition shall be valid for any action for a vote by the electors or voters at any regular or special town meeting unless such petition shall be circulated by a person resident or eligible to vote in such town. (February, 1965, P.A. 360.)

Sec. 7-9b. Hours of voting at referenda. Whenever any municipality conducts a referendum on a day other than a state or local election, the polls shall be open between twelve noon and eight p.m., but any municipality may, any provision of any special act to the contrary notwithstanding, by vote of its legislative body provide that the polls at any such referendum shall open at an earlier hour but not earlier than six a.m. (1967, P.A. 805, S. 1; 1969, P.A. 3, S. 2; 694, S. 19.)

Sec. 7-9c. Dates and hours of referenda. Unless otherwise provided by law, a referendum on any question may be held on such date as the legislative body of the political subdivision holding such referendum shall determine and at such hours as is provided in section 7-9b; provided any such referendum shall be held not earlier than the thirtieth day following the day upon which the municipal clerk, upon instruction from the legislative body, issues a warning therefor by publishing a notice thereof in a newspaper having a general circulation in the municipality, and provided, if any question is to be submitted at an election as that term is defined in section 9-1, the provisions of sections 9-369, 9-369a and 9-370 shall apply. The provisions of this section shall not apply to votes scheduled pursuant to petitions filed under section 7-7. (1969, P.A. 426, S. 1; 1971, P.A. 507, S. 3.)

Sec. 7-9d. Validation of prior referenda. Hours. (a) Notwithstanding section 7-9c, any referendum or special election held by any municipality between May 1, 1969, and July 1, 1969, if warned and held and otherwise valid and conducted in accordance with the relevant general statutes is validated and deemed to have been properly warned and held. (b) Notwithstanding section 7-7, the hours of any such referendum or special election held by any municipality between May 1, 1969, and July 1, 1969, shall be in accordance with the hours set by any municipality by vote taken under the provisions of section 7-148 and in the event no vote is taken such hours shall be from 12 noon to eight p.m. (1969, P.A. 624, S. 1, 2.)

PART III*

REGIONAL SCHOOLS

Sec. 10-39. Temporary regional school study committee. (a) Two or more towns may establish a regional school district in accordance with the provisions

*Plaintiff merely taxpayer and voter in area affected has no standing to bring action for declaratory judgment concerning validity of establishment of regional school district under this chapter. 157 C. 1

of this part and the regulations promulgated thereunder. The state board of education shall promulgate regulations setting standards to govern the formation of regional school districts with respect to the minimum and maximum enrolment, the geographical limitations and other such factors which bear on the achievement of more efficient administration of a school district and efficacious education of the pupils therein. (b) Two or more town or regional school districts may, by vote of their legislative bodies, join in the establishment of a temporary regional school study committee, hereafter referred to as the committee, to study the advisability of establishing a regional school district, and report to the respective towns in accordance with section 10-43. In performing its duties, such committee may employ an architect to assist in estimating the cost of providing school facilities, an appraiser to establish the value of assets of each participating school district and such other professional consultants or personnel as may be needed, provided the committee shall not incur obligations which exceed the monies received pursuant to section 10-42. The committee shall continue until dissolved pursuant to section 10-43 but no longer than two years from the date of its organization unless the legislative bodies of the participating towns vote to extend the life of the committee for a period not to exceed two years. (c) Two or more boards of education may conduct a preliminary study of the advisability of establishing a regional school district, and if their findings are affirmative, such boards of education, except as provided below, shall submit a written report to the chief executive officer in each town served by such boards. Within thirty days of the receipt of the report, such officer shall call a meeting of the legislative body of the town which shall consider the report and vote on the question of establishing a temporary regional school study committee pursuant to subsection (b) of this section. In the case of a regional board of education, such board shall call a meeting of the regional school district for such purposes. (d) A regional school district may participate as a region in any study undertaken pursuant to subsection (b) or (c) of this section, provided such study is for the purpose of establishing a regional school district which may provide for the proposed district all programs under the general supervision and control of the state board of education. In the case of a preliminary study, the regional board of education shall submit the written report to a regional school district meeting called to consider the report and vote on the question of joining in the establishment of a temporary regional school study committee pursuant to subsection (b) of this section. A regional school district may vote to appoint five members to a temporary regional school study committee at a regional school district meeting. Two of such members shall be members of the regional board of education. The towns which are members of such regional school district shall be "participating" towns for the purposes of notice, reports and referenda under sections 10-41 to 10-43, inclusive, and section 10-45. If a new regional school district is established by the referenda, the board of education of the regional school district which participated in the study shall be deemed a town board of education for purposes of section 10-46a. (e) Any temporary regional school study committee established before June 24, 1969, shall continue its study in accordance with the procedures and mandates of this part, but shall not be required to change its membership. The provisions of section 10-42 shall apply. (1951, 1953, 1955, S. 895d; 1969, P.A. 698, S. 1.)

Cited. 157 C. 7.

Sec. 10-40. Appointment of committee members. The legislative body of each town joining in the establishment of such a committee shall appoint to such

committee five members at least two of whom shall be members of the board of education of such town. The town clerk of each town shall immediately give notice of the appointments made to the state board of education. Within thirty days of receipt of the last of such notices, the state board of education shall appoint a consultant to such committee. The consultant shall call the first meeting of the study committee within ten days after his appointment. (1951, 1953, 1955, S. 895d; 1963, P.A. 387, S. 1; February, 1965, P.A. 411, S. 1; 1969, P.A. 698, S. 2.)

Cited. 141 C. 401.

Sec. 10-41. Officers and records of committee. The committee, at its first meeting, shall elect from among its number a chairman, a secretary, a treasurer who shall be bonded, and such other officers as the committee determines to be necessary. Meetings of the committee shall be held at the call of the chairman or at such times as the committee determines. A majority of the committee shall constitute a quorum. The treasurer shall receive all funds and monies of the committee, pay out the same upon the order of the committee within the limits of such receipts and keep detailed accounts thereof. The secretary of the committee shall keep minutes of the meetings and file copies thereof with the town clerk of each participating town. (1951, 1953, 1955, S. 896d; 1969, P.A. 698, S. 3.)

Sec. 10-42. Expenses of committee. The committee may receive and disburse for the purposes of the study monies from any source, including bequests, gifts or contributions, made by any individual, corporation or association. Each participating town shall pay a share of the expenses of the committee in an amount which is in the same proportion to the total expenses as the number of pupils used to compute the grant to such town pursuant to section 10-262 for the school year next prior to that in which the committee is established bears to the total number of such pupils in participating towns. The expenses of the committee in the initial two-year period shall not exceed five dollars times the total number of pupils used in the above computation. An affirmative vote by the legislative body to join a temporary regional school study committee shall obligate the town or regional school district to pay its share of the expenses of the committee. The treasurer of the district shall pay to the committee upon demand of its treasurer any portion of such share. Subject to the approval of the state board of education, for the purpose of computing any state grant for school building purposes under chapter 173, any part of such monies paid to an architect for professional services shall be applied to the total cost of any school building which may be constructed. An affirmative vote by the legislative body to extend the life of the committee pursuant to section 10-39 shall obligate the town or regional school district to pay its share of the additional expenses. The total expenses of the committee for each additional year shall not exceed one-half the limit set for the initial two-year period. Any unencumbered balance remaining in the treasury of the committee at the time such committee is dissolved shall be returned by the treasurer to the participating districts in the same proportion as their respective shares were paid to finance the expenses of the committee (1951, 1955, S. 897d; 1969, P.A. 698, S. 4.)

Sec. 10-43. Reports to towns. Dissolution of committee. (a) The committee shall at least semiannually, make progress reports to the participating towns and the state board of education in such manner as the committee deems suitable.

Upon completion of its study, the committee shall present a written report of its findings and recommendations to the state board of education and the town clerk of each participating town. If the committee finds that establishment of the proposed regional school district is inadvisable, its report shall include such findings and an explanation of the reasons for its conclusions. If the findings of the committee support the feasibility and desirability of establishing a regional school district, its report shall contain the findings of the committee with respect to the advisability of establishing a regional school district, the towns to be included, the grade levels for which educational programs are to be provided, the facilities recommended, estimates of the cost of land and facilities, a recommendation concerning the capital contribution of each participating town based on appraisals of existing land and facilities owned and used by each town for public elementary and secondary education which the committee recommends be acquired for use by the proposed regional school district, together with a plan for the transfer of such land and facilities, a recommendation concerning the size of the board of education to serve the proposed regional school district and the representation of each town thereon, and such other matters as the committee deems pertinent. The capital contribution of each participating town shall be in the same proportion to the total purchase price of the property transferred as the number of pupils used to compute the grant to such town pursuant to section 10-262 for the school year preceding that in which the plan is approved by the state board of education bears to the total number of such pupils in the participating towns. (b) If the committee finds: (1) Establishment of the proposed regional school district is inadvisable, the state board of education shall, within thirty days of receipt of such report, send to the committee and the town clerk of each participating town a statement of its agreement or disagreement with the committee report and the reasons therefor. The town clerk shall make available copies of the report and the statement and publish notice thereof in a newspaper having general circulation in the town. Within thirty days after receipt of the statement of the state board of education, the committee shall present the report and statement to the legislative body of each participating town at a public meeting called for the purpose of acting thereon. The committee is dissolved upon presentation of its report to all participating towns; (2) establishment of a regional school district is advisable, the state board of education shall, within thirty days of the receipt of such report, determine whether the proposed plan meets the regulations under section 10-39 in effect on the date the report was received and shall, accordingly, accept or reject the recommendations of the committee. (i) If the recommendations are rejected, the state board of education shall advise the committee in writing of the reason for rejection. The committee may revise its recommendations and resubmit its report within thirty days of receipt of notice of the rejection and shall, in such case, file a copy of the amended report with the town clerk of each participating town. If the committee does not submit an amended plan or if the committee submits an amended plan which is rejected by the state board of education, the proposed regional school district shall not be established and the procedure in subdivision (1) of this subsection shall apply. (ii) If the committee report is accepted, the state board of education shall certify to the town clerk in each of the participating towns that the committee recommendations have been approved and send a copy of such certification to the committee. The town clerk shall make available copies of the certified report and publish notice of the certification and availability of copies in a newspaper having general circulation in the town. Within thirty days after receipt of its copy of the certification,

the committee shall hold a public meeting in each participating town to present the certified report. All participating towns shall hold a referendum on the same day in accordance with section 10-45. Upon completion of such referenda as may be held thereunder, the committee is dissolved. (1951, 1955, S. 898d; 1963, P.A. 387, S. 2; February, 1965, P.A. 411, S. 2; 1969, P.A. 698, S. 5.)

Sec. 10-44. Disposition of committee records. Upon the dissolution of the committee after a referendum establishing a regional school district, the persons who served as secretary and treasurer of the committee shall transfer the original official records of the committee to the secretary of the regional board of education. Upon dissolution of the committee without the establishment of a regional school district, such persons shall transfer such records to the state board of education. (1951, 1953, 1955, S. 899d; 1969, P.A. 698, S. 6.)

Sec. 10-45. Referendum on establishment of regional districts. (a) Upon receipt of a copy of the certificate of approval, the committee shall set the day on which referenda shall be held simultaneously in each of the participating towns to determine whether a regional school district shall be established as recommended. Such referenda shall be held between forty-five and ninety days from the date of such approval. The committee shall immediately notify the town clerk in each participating town of its decision. Upon receipt of such notice, the town clerk shall file the notice required by section 9-369a. The warning of such referenda shall be published, the vote taken and the results thereof canvassed and declared in the same manner as is provided for the election of officers of a town, except that absentee voting shall not be permitted in other than a special or regular election. The town clerk of each participating town shall certify the results of the referendum to the state board of education. (b) The vote on the question shall be taken by voting machine and the designation of the question on the voting machine ballot label shall be "For establishing a regional school district in accordance with the plan approved by the state board of education on(date), YES" and "For establishing a regional school district in accordance with the plan approved by the state board of education on(date), NO" and the label used shall conform with the provisions of section 9-250. If the majority of the votes in each of the participating towns is affirmative, a regional school district composed of such towns is established and shall be numbered in accordance with the order of the incorporation of the districts. (c) If the majority vote of one or more of such towns is negative, the committee shall determine the advisability of immediately submitting the question to referendum a second time. If the committee so recommends, it shall notify the town clerk in each participating town of its decision. Within thirty days after receipt of such notice, the legislative body of the town shall meet to act upon the committee recommendation. If the legislative body in each of the participating towns accepts the recommendation, a second referendum shall be held in each participating towns in accordance with the provisions of this section. If the majority of votes cast in each town is affirmative, the regional school district is established and numbered accordingly. (1949 Rev., S. 1375; 1951, 1953, 1955, S. 900d; 1953, S. 919d; 1963, P.A. 387, S. 3; February, 1965, P.A. 411, S. 3; 1969, P.A. 698, S. 7.)

District held at least de facto. Any irregularities were validated by special act of legislature and no town has power to withdraw legislative authority. 134 C. 613. Cited. 157 C. 7.
Cited. 20 CS 158.

Sec. 10-46. Regional board of education. (a) The affairs of the regional school district shall be administered by a regional board of education, which shall consist of not fewer than five nor more than nine members. Each member town shall elect at least one member. The committee report shall determine the number of members of such regional board and the representation of each town. The first members of such regional board of education shall be nominated and elected at a meeting of the legislative body of each town held within thirty days after the referendum creating the district. The regional board of education at its first meeting, called by the secretary of the state board of education within ten days from the time the last member town to appoint members to the regional board has done so, shall organize and the members shall serve until their successors are elected and qualify. At such meeting, the board shall determine the term of office of each member according to the following principles: (1) The term of office of each successor shall be four years; (2) to establish a continuity of membership, a system of rotation shall be used; if the board has an even number of members, one-half of such number shall be elected every two years and if the board has an uneven number of members, no more than a bare majority or a bare minority shall be elected every two years, except when the unexpired portion of the term of a vacated office must be filled; (3) the same system of rotation shall be used for election of the representatives of each member town, if possible; (4) if necessary, it shall be determined by lot which of the initial members shall serve the short terms; (5) at the first election of members in accordance with subsection (b) or (c) of this section, no more than half the offices held by initial board members shall be filled; (6) the offices held by the remaining initial board members shall be filled at the second election held in accordance with subsection (b) or (c) of this section. Thereafter, members of the board shall be nominated and elected in their respective towns in accordance with subsection (b) or (c) of this section as determined by the legislative body of each town.

(b) At least thirty days before the expiration of the term of office of any board member, a town meeting shall be held in accordance with chapter 90 to nominate and elect a successor. Any person who is an elector of such town may vote at such meeting. If a vacancy occurs in the office of any member of the regional board of education, the town affected, at a town meeting called within thirty days from the beginning of such vacancy, shall nominate and elect a successor to serve for the unexpired portion of the term in accordance with the above procedure.

(c) Board members shall be nominated and elected in the same manner as town officers in accordance with the provisions of title 9 except that (1) section 9-167a and parts II and III of chapter 146 shall not apply and (2) the board members so elected shall take office the first day of the month following the elections. If a vacancy occurs in the office of any member of the regional board of education, the legislative body of the town affected shall elect a successor to serve until the next general election, at which time a successor shall be elected to serve any unexpired portion of such term.

(d) All members of a regional board of education shall take office on the first day of the month following their election. Such board shall hold an organizational meeting in the month following the last election of members thereof held

in the member towns in any calendar year at which time the board shall elect by ballot from its membership a chairman, a secretary, a treasurer and any other officer deemed necessary and may annually thereafter elect such officers. In the case of a tie vote in the balloting for any officer, such tie shall be broken by lot. The treasurer shall give bond to the regional board of education in an amount determined by the members thereof. The cost of such bond shall be borne by the district.

(1949 Rev., S. 1376; 1951, 1953, 1955, S. 901d; February, 1965, P.A. 470; 1967, P.A. 333, S. 1; 1969, P.A. 698, S. 8; 1971, P.A. 679, S. 1.)

Cited. 134 C. 619; 141 C. 401.

Sec. 10-46a. Transfer of responsibility to regional board. The regional board of education shall, after consultation with the town boards of education in the towns comprising the regional school district, determine the time and method by which the responsibility of conducting the educational program shall be transferred to the regional board of education, provided such transfer shall be completed within two years of the date of the organizational meeting of the regional board of education. When, in accordance with this section or section 10-47b, a regional board of education assumes the responsibility for administration of all programs which are provided in the member towns and are under the general supervision and control of the state board of education, the town boards of education are dissolved. (1969, P.A. 698, S. 9.)

§ 10-47. Powers of regional board

Regional boards of education shall have all the powers and duties conferred upon boards of education by the general statutes not inconsistent with the provisions of this part. Such boards may purchase, lease or rent property for school purposes and, as part of the purchase price may assume and agree to pay any bonds or other capital indebtedness issued by a town for any land and buildings so purchased; shall perform all acts required to implement the plan of the committee for the transfer of property from the participating towns to the regional school district and may build, add to or equip schools for the benefit of the towns comprising the district. Such boards may receive gifts of real and personal property for the purposes of the regional school districts. The regional school district annual meeting shall be the district meeting at which the annual budget is first presented for adoption and shall be held the first Monday or the first Tuesday in May. The boards may convene special district meetings when they deem it necessary. District meetings shall be warned and conducted in the same manner as are town meetings. For such purposes, the chairman of the board shall have the duties of the board of selectmen and the secretary shall have the duties of the town clerk. (1967, P.A. 113, § 1, eff. May 23, 1967; 1969, P.A. 698, § 10, eff. June 24, 1969; 1973, P.A. 73-539.)

See Sec. 10-241a.

Sec. 10-47a. Withdrawal of grades. Section 10-47a is repealed. (1963, P.A. 444, S. 2; 1969, P.A. 698, S. 27.)

Sec. 10-47b. Addition or withdrawal of grades. (a) Except as provided in subsection (b) of this section, any regional board of education in a school district which does not include all elementary and secondary school grades may recommend a study of the advisability of the addition to or withdrawal of grades from

the regional school district or, upon the request of two or more of the town boards of education of the member towns, shall recommend such a study to the chairmen of the town boards of education and chairmen of the boards of finance or other such authorities in each town affected. Within thirty days of receipt of such recommendation, such chairmen shall each appoint one of the members of their boards and the chairman of the regional board of education shall appoint one member of the regional board from each member town to a study committee. The secretary of the state board of education shall appoint a consultant to the study committee. The study committee shall proceed in the same manner as the temporary regional school study committee except that the expenses of the committee shall be borne by the regional school district and shall not exceed three dollars times the number of pupils used to compute the grants made to such town and regional school districts pursuant to section 10-262 and the committee shall submit its report to the participating towns no later than one year from the date of its organizational meeting. If the committee recommends a plan for addition to or withdrawal of grades from the regional school district and the referenda held in the manner provided in section 10-45 result in an affirmative vote in the regional school district as a whole, the participating towns shall implement the plan.

(b) The procedures in subsection (a) of section 10-47b shall not be used to dissolve a regional school district, but may be used to empower the regional school district to administer all programs which are provided in the member towns and are under the general supervision and control of the state board of education. In such case, if the vote in each member town affirms the expansion, the town boards of education in such member towns shall be dissolved in accordance with section 10-46a. If the vote is not affirmative in all the member towns, but is affirmative in a majority of such towns, the towns voting in favor of such expansion may initiate a study of the feasibility of establishing a regional school district to administer all programs which are provided in such towns and are under the general supervision and control of the state board of education. Such study shall be initiated and conducted pursuant to sections 10-39 through 10-45. In such case, the study may be made forthwith without using the procedures for withdrawal of a town or dissolution of a regional school district provided in sections 10-63a through 10-63c. If a second regional school district is so established by referenda, the first regional school district shall be dissolved. The state board of education shall make the relevant determinations required by section 10-63c for such dissolution of an existing regional school district. The assets apportioned to the member towns of the new regional school district may be transferred directly to said district. If secondary schools are among the assets so transferred to the new regional district, said district shall accept applications from the remaining school districts for admission of secondary students for a tuition based on per pupil cost for a period of at least three years after the dissolution. The state board of education may withhold from the next grant paid pursuant to section 10-262 to the town or regional school districts so established an amount equal to the proportionate share to be borne by each such district of the cost of the services rendered by said state board during the dissolution of the regional school district.

(1969, P.A. 698, S. 11; 1971, P.A. 679, S. 2.)

Sec. -10-47c. Amendment of plan. With the exception of the terms which pertain to the capital contribution of member towns, the transfer of property to

the regional school district, the grades included and the towns to be served by the regional school district, the terms of the plan approved through referenda pursuant to section 10-45 may be amended as follows: If a regional board of education finds it advisable to amend the plan or if the legislative body of a town served by the regional board of education requests amendment of such plan, the regional board of education shall prepare a report on the proposed amendment, including the question to be presented, file a copy with the state board of education and the clerk of each member town and make copies of such report available to the public at a district meeting called to present the plan. After such public hearing, the board shall set the date for referenda which shall be held simultaneously in each member town between the hours of six a.m. and eight p.m. At least thirty days before the date of the referenda, the regional board of education shall notify the town clerk in each member town to call the referendum on the specified date to vote on the specified question. The warning of such referenda shall be published, the vote taken and the results thereof canvassed and declared in the same manner as is provided for the election of officers of a town, except that absentee voting shall not be permitted in other than a special or regular election. The town clerk of each town shall certify the vote of his town to the regional board of education. If the majority vote in each town of the district is in favor of the proposed amendment to the plan, such amendment shall take effect immediately. (1969, P.A. 698, S. 12.)

Sec. 10-48. Relocation of site. Section 10-48 is repealed. (1952, S. 902d; 1969, P.A. 698, S. 27.)

Sec. 10-49. Site in town outside district. Section 10-49 is repealed. (1953, S. 904d; 1969, P.A. 698, S. 27.)

Sec. 10-49a. Site in town outside district. Any school district may acquire real property upon which to build a school in a town not within such school district, provided such town approves such acquisition by referendum. Those eligible to vote at town meetings under section 7-6 shall be eligible to vote on such question. Any school district proposing to acquire such property shall so notify the town clerk of the town in which such property is located, and such town shall hold a referendum within sixty days after receipt of such notice. The school district giving such notice shall bear the cost of such referendum. (1969, P.A. 698, S. 25.)

Sec. 10-50. Admission of adjacent town to district. Section 10-50 is repealed. (1949 Rev., S. 1375; 1951, 1953, 1955, S. 905d; 1953, S. 919d; February, 1965, P.A. 411, S. 4; 1969, P.A. 698, S. 27.)

Sec. 10-51. Fiscal year. Budget. Payments by member towns. Investment of funds. Temporary borrowing. (a) The fiscal year of a regional school district shall be July first to June thirtieth. Except as otherwise provided in this subsection, not less than two weeks before the annual meeting held pursuant to section 10-47, the board shall hold a public district meeting to present a proposed budget for the next fiscal year. Any person may recommend the inclusion or deletion of expenditures at such time. After the public hearing, the board shall prepare an annual budget for the next fiscal year, make available on request copies thereof and deliver a reasonable number to the town clerk of each of the towns in the district at least five days before the annual meeting. At the annual meeting on the first Monday in May, the board shall present a budget which includes

a statement of (1) estimated receipts and expenditures for the next fiscal year, (2) estimated receipts and expenditures for the current fiscal year, (3) estimated surplus or deficit in operating funds at the end of the current fiscal year, (4) bonded or other debt, (5) estimated per pupil expenditure for the current and for the next fiscal year and (6) such other information as is necessary in the opinion of the board. Persons present and eligible to vote under section 7-6 may accept or reject the proposed budget except as provided below. No person who is eligible to vote in more than one town in the regional school district is eligible to cast more than one vote on any issue considered at a regional school district meeting or referendum held pursuant to this section. Any person who violates this section by fraudulently casting more than one vote or ballot per issue shall be fined not less than three hundred dollars nor more than five hundred dollars and shall be imprisoned not less than one year nor more than two years and shall be disenfranchised. If the regional school district is comprised of four or more towns, the regional board of education may, in the call to the meeting, designate that the vote on the motion to adopt the budget shall be by paper ballots or by a "yes" or "no" vote on the voting machines in each of the member towns on the day following the district meeting. Two hundred or more persons qualified to vote in any regional district meeting called to adopt a budget may petition the regional board, in writing, at least three days prior to such meeting, requesting that any item or items on the call of such meeting, be submitted to the persons qualified to vote in the meeting for a vote by paper ballot or on the voting machines in each of the member towns on the day following the district meeting and in accordance with the appropriate procedures provided in section 7-7. If a majority of such persons voting reject the budget, the board shall, within two weeks thereafter and upon notice of not less than one week, call a district meeting to consider the same or an amended budget. Such meetings shall be convened at such intervals until a budget is approved. After the budget is approved, the board shall estimate the share of the net expenses to be paid by each member town in accordance with subsection (b) of this section and notify the treasurer thereof. With respect to adoption of a budget for the period from the organization of the board to the beginning of the first full fiscal year, the board may use the above procedure at any time within such period. If the board needs to submit a supplementary budget, the general procedure specified in this section shall be used.

(b) For the purposes of this section, "net expenses" means estimated expenditures less estimated receipts as presented in a regional school district budget. On the date or dates fixed by the board, each town in the district shall pay a share of the cost of capital outlay and current expenditures necessary for the operation of the district. The board shall determine the amount to be paid by each member town. Such amount shall bear the same ratio to the net expenses of the district as the number of pupils resident in such town in average daily membership in the regional school district during the preceding school year bears to the total number of such pupils in all the member towns. Until the regional school district has been in operation for one year, such amounts shall be based on the average daily membership of pupils in like grades from each of such towns at any school at which children were in attendance at the expense of such towns during the preceding school year.

(c) The board shall deposit or invest temporarily any funds which are not needed immediately for the operation of the school district in any manner permitted school districts or municipalities in chapter 112. Any income derived

from such deposits or investments shall be used at least semiannually to reduce the net expenses. The board shall use any budget appropriation which has not been expended by the end of the fiscal year to reduce the net expenses of the district for the following fiscal year. The board may borrow funds temporarily in anticipation of payments to be made to it by a member town or the state, for the operation of its schools.

(1949 Rev., S. 1378; 1951, 1953, S. 906d; 1969, P.A. 698, § 13; 1971, P.A. 679, S. 3, 4.)

Cited. 141 C. 401.

Sec. 10-51a. Petition to determine deficiency in town payment. If any town which is a member of a regional school district fails to include in its annual town budget appropriations for any year the amount necessary for payment of its proportionate share of the annual budget of such regional school district, as required by section 10-51 or section 5 of number 405 of the special acts of 1959, ten or more taxable inhabitants of a town within such school district, a majority of the board of selectmen of any such town, the attorney general, a holder or owner of bonds or notes of such regional school district, the board of education of such regional school district or the state board of education may petition the superior court to determine the amount of the alleged deficiency. If the court finds such deficiency to exist, it shall order such town, through its treasurer, selectmen and assessor, to provide a sum of money equal to such deficiency, together with a sum of money equal to twenty-five per cent thereof. The amount of the deficiency shall be paid by the town to the regional school district as soon as it is available; the additional sum of twenty-five per cent shall be kept in a separate account by such town and shall be applied toward payment of such town's share of the annual budget of the regional school district in the following year. If such order is made prior to the fixing of the annual tax rate of such town, such tax rate shall be adjusted to cover the sums included in such order. If such order is made after the fixing of the annual tax rate of such town, the sums included in such order shall be provided by the town from any available cash surplus, from any contingent fund, from borrowing, through a rate bill under the provisions of section 12-123 or from any combination thereof. Any borrowing to meet such deficiency shall be made by the town treasurer, with the approval of a majority of the selectmen, and no vote of the town shall be required therefor. Such borrowed amount shall be included in the estimated expenses of the town in the tax levy for the next fiscal year. Petitions brought to the superior court under the provisions of this section shall be privileged in respect to their assignment for hearing. (1961, P.A. 114, S. 1.)

Sec. 10-52. Adult education. A regional district may provide adult education for the towns in the district in accordance with sections 10-67 to 10-70, inclusive, and shall be eligible for reimbursements for adult education programs in accordance with sections 10-67 and 10-71. Any balance of the cost of such adult education shall be prorated among and paid by the towns on the basis of the clock hour pupil attendance from each town. The regional board of education shall charge tuition for any student from outside the regional school district who participates in the adult education program. (1951, 1955, S. 907d.)

Sec. 10-53. Application of education statutes. All provisions of the general statutes relating to public education, including those providing state grants-in-

aid, shall apply to each town belonging to a regional school district, provided, if the board of education of any regional school district provides transportation to a regional school, such district shall be reimbursed by the state as provided in section 10-54. Any regional school district empowered to provide to the member towns all programs under the general supervision and control of the state board of education shall receive each year in addition to the amount of state aid under section 10-262 ten per cent of said amount. (1951, S. 908d; 1967, P.A. 473, S. 1; 1969, P.A. 698, S. 14.)

Sec. 10-54. Transportation grants. Any town or regional school district which transports pupils to a regional school and any regional school district which transports pupils attending any other school in lieu of that provided by such district in accordance with approval by the regional board of education pursuant to section 10-55 shall be reimbursed by the state for one-half the amount paid for such transportation. At the close of each school year any regional or town board of education which provides such transportation shall file an application for such reimbursement on a form to be provided by the state board of education. Payments shall be made as soon as possible after the close of each fiscal year. (1951, S. 909d; 1969, P.A. 698, S. 15.)

Sec. 10-55. Pupils to attend regional school. No pupil from any town belonging to a regional school district shall, at the expense of such town, attend any other school in lieu of that provided by said district except a vocational school approved by the state board of education, unless his attendance at such other school is approved by the regional board of education. (1949 Rev., S. 1380; 1951, S. 910d.)

Sec. 10-56. Corporate powers. Bond issues.

(a) A regional school district shall be a body politic and corporate with power to sue and be sued; to purchase, receive, hold and convey real and personal property for school purposes; and to build, equip, purchase, rent, maintain or expand schools. Such district may issue bonds in the name and upon the full faith and credit of such district and the member towns to acquire land, prepare sites, purchase or erect buildings and equip the same for school purposes, if so authorized by referendum. Such referendum shall be conducted in accordance with the procedure provided in section 10-47c except that any person entitled to vote under section 7-6 may vote and the question shall be determined by the majority of those persons voting in the regional school district as a whole. The exercise of any or all of the powers set forth in this section shall not be construed to be an amendment of a regional plan pursuant to said section 10-47c. A regional board of education may expend any premium in connection with such issue, interest on the proceeds of such issue or unused portion of such issue to add to the land or buildings erected or purchased and for the purchasing and installing of equipment for the same. Such bonds shall be denominated "Bonds of regional school district number . . . of the State of Connecticut." Such bonds shall be serial bonds, with coupons attached, and registerable as to principal and interest or as to principal alone, shall be signed by the chairman and the treasurer of the regional board of education and shall bear such rate of interest, mature in such substantially equal instalments and be issued in such denominations and at such times and places as shall be determined by such board. The first instalment of any series of bonds shall mature not later than two years from the date of the issue of such series and the last instalment of such series shall mature not later than twenty years therefrom. Such bonds, when executed, issued and delivered, shall be general obligations of such district and the member towns, according to their terms. Any regional school district which has issued any bonds or other obli

gations pursuant to any general statute or special act may redeem them by issuing new bonds or other obligations. (b) "Annual receipts from taxation" means the receipts from taxation of the member towns for the fiscal year next preceding the close of the last fiscal year of such regional school district. Notwithstanding the provisions of section 7-374, any regional school district may assume bonds or other indebtedness of any member town as part of the purchase price of any property for school purposes or issue bonds or notes, provided the aggregate indebtedness of such district shall not exceed: (1) In the case of a regional school district serving the same towns as are served by two or more town school districts, two and one-quarter times the annual receipts from taxation or (2) in the case of a regional school district empowered to provide for the member towns all programs under the general supervision and control of the state board of education, four and one-half times such annual receipts from taxation. Any regional school district may issue additional bonds or notes in an amount not to exceed three and one-half times such annual receipts from taxation less the aggregate indebtedness as defined in section 7-374 for the member towns of such district. (c) When a district has been authorized to issue general obligation bonds as provided by this section, the board may authorize, for a period not to exceed four years, the issue of temporary notes in anticipation of the receipt of the proceeds from the sale of such bonds. Notes issued for a shorter period of time may be renewed by the issue of other notes, provided the period from the date of the original notes to the maturity of the last notes issued in renewal thereof shall not exceed four years. The term of such notes shall not be included in computing the time within which such bonds shall mature. The provisions of section 7-375 shall be deemed to apply to such notes. The board shall determine the date, maturity, interest rate, form, manner of sale and other terms of such notes which shall be general obligations of the regional school district and member towns. Such notes may bear interest or be sold at a discount. The interest or discount on such notes and any renewals thereof and the expense of preparing, issuing and marketing them may be included as a part of the cost of the project for the financing of which such bonds were authorized. Upon the sale of such bonds, the board shall apply immediately the proceeds thereof, to the extent required, to the payment of the principal and interest of all notes issued in anticipation thereof or deposit the proceeds in trust for such purpose with a bank or trust company, which may be the bank or trust company, if any, at which such notes are payable. (d) Subject to the provisions of subsection (c) of this section, the board may deposit or invest the proceeds of bonds or of notes issued in anticipation thereof in the same manner and to the same extent as permitted school districts or municipalities in chapter 112. (1949 Rev., S. 1381; 1951, 1955, S. 911d; 1953, S. 919d; November, 1955, S. N118; February, 1965, P.A. 7; 1967, P.A. 626, S. 2; 674; 1969, P.A. 132, S. 2; 698, S. 16.)

Sec. 10-57. Debt limitation. Section 10-57 is repealed. (1951, 1955, S. 912d; November, 1955, S. N119; 1957, P.A. 511; September, 1957, P.A. 19; 1963, P.A. 604, S. 2; 1969, P.A. 132, S. 1; 698, S. 27.)

See Sec. 10-56.

Sec. 10-58. Investment of proceeds of bond issue. Section 10-58 is repealed. (1951, S. 913d; 1969, P.A. 698, S. 27.)

See Sec. 10-56.

Sec. 10-58a. Default of district in payment on bonds or notes. Withholding of state aid. Whenever it is established as herein provided that a regional school district, including Regional School District Number 1 of Litchfield County, has defaulted in the payment of the principal or interest, or both, on its bonds or notes, the payment of state aid and assistance to such regional school district pursuant to any statute then in existence shall be withheld by the state. If a holder or owner of any such bond or note of such regional school district files with the state comptroller a verified statement describing such bond or note and alleging default in the payment thereof or the interest thereon, or both, the comptroller shall immediately investigate the circumstances of the alleged default, prepare and file in his office a certificate setting forth his finding with respect thereto and serve a copy of such finding, by registered or certified mail, upon the treasurer or chief fiscal officer of such regional school district. Such investigation shall cover the current status with respect to the payment of principal of and interest on all outstanding bonds and notes of such regional school district, and the statement prepared and filed by the comptroller pursuant to this section shall set forth a description of all bonds and notes of such regional school district found to be in default and the amount of principal and interest thereon past due. Upon the filing of such a certificate in the office of the comptroller, the comptroller shall thereafter deduct and withhold from the next succeeding payment of state aid or assistance otherwise due such regional school district such amount as is necessary to pay the principal of and interest on such bonds and notes of such regional school district then in default. If such amount is insufficient to pay all of such principal and interest, said comptroller shall similarly deduct and withhold from the next succeeding payment of state aid and assistance, otherwise due to any town in such district which is currently in default of its annual payments to such district, such amount as is necessary to pay the principal of and interest on such bonds or notes remaining in default. If all such amounts withheld are insufficient to pay all such principal and interest, the comptroller shall similarly deduct and withhold from each succeeding payment of state aid or assistance otherwise due such regional school district and such towns such amount or amounts thereof as may be required to pay all of the principal of and interest on such bonds and notes then in default. Payments of state aid or assistance so deducted and withheld shall be forwarded promptly by the comptroller to the paying agent or agents for the bonds and notes in default for the sole purpose of payment of defaulted principal of and interest on such bonds or notes; provided, if any such payment of state aid or assistance so deducted or withheld is less than the total amount of all principal and interest on such bonds and notes, then the comptroller shall forward to each paying agent an amount in the proportion that the amount of such bonds and notes in default payable by such paying agent bears to the total amount of the principal of and interest then in default on such bonds and notes of such regional school district. The comptroller shall promptly notify the treasurer or the chief fiscal officer of such regional school district of any payment or payments made to any paying agent or paying agents of defaulted bonds or notes pursuant to this section. The state of Connecticut hereby covenants with the purchasers, holders and owners from time to time of bonds and notes issued by regional school districts for school purposes that it will not repeal the provisions of this section or amend or modify the same so as to limit or impair the rights and remedies granted hereby; provided nothing herein contained shall be deemed or construed as requiring the state to continue the payment of state

aid or assistance to any regional school district or town or as limiting or prohibiting the state from repealing or amending any law relating to state aid or assistance, the manner and time of payment or apportionment thereof, or the amount thereof. (1961, P.A. 114, S. 2.)

Sec. 10-59. Fiscal year. Budget. Section 10-59 is repealed. (1949 Rev., S. 1384; 1951, 1953, 1955, S. 915d; 1959, P.A. 698, S. 27.)

See Sec. 10-51.

Sec. 10-60. Borrowing in addition to bonds. In addition to the power to issue bonds as provided by section 10-56, such regional board of education may, when so authorized by a majority vote at a regional school district meeting called for such purpose, borrow sums of money in an amount which shall not exceed in the aggregate two hundred thousand dollars for a period not to exceed five years and pay interest thereon for acquiring lands, securing the services of architects and professional consultants, the operation and maintenance of regional schools, the installation of equipment therein and contingent or other necessary expenses connected therewith. Persons eligible to vote under the provisions of section 7-6 may vote on such issue. Such loans shall be in the name of and shall be general obligations of such district and the member towns. The chairman and treasurer of the board shall sign the note evidencing any such loan. (1949 Rev., S. 1384; 1951, 1953, 1955, S. 915d; 1969, P.A. 290, S. 1; 698, S. 17.)

Sec. 10-61. Withdrawal of town. Section 10-61 is repealed. (1951, 1955, S. 916d; 1963, P.A. 389, S. 9.)

See Sec. 10-63a et seq.

Sec. 10-62. Dissolution of district. Section 10-62 is repealed. (1951, S. 917d; 1963, P.A. 389, S. 9.)

See Sec. 10-63a et seq.

Sec. 10-63. Payment of indebtedness on dissolution of district. (1951, S. 918d; 1963, P.A. 389, S. 9.)

See Sec. 10-63f.

Sec. 10-63a. Vote for withdrawal of town or dissolution of district. (a) Any town which is a member of a regional school district may, pursuant to a vote of its legislative body, apply to the regional board of education to institute procedure for withdrawal from the district or, in the case of a district composed of two towns, dissolution of the district as hereinafter provided. (b) Any two or more towns which are members of a regional school district composed of three or more towns may, pursuant to a vote of the legislative bodies of the respective towns, apply to the regional board of education to institute procedure for the dissolution of the district as hereinafter provided. (1963, P.A. 389, S. 1; February, 1965, P.A. 411, S. 5; 1969, P.A. 698, S. 18.)

Sec. 10-63b. Committee to determine conditions of withdrawal or dissolution. Within thirty days of receipt of an application pursuant to section 10-63a the regional board of education shall call for the appointment of a committee to determine whether and under what conditions such withdrawal or dissolution

shall take place. The committee shall consist of the following: One member of the board of education of each town within the district, to be selected by each such board, if any, or if none, an elector to be elected by the legislative body in such town; one member of the board of finance or comparable fiscal body of each town within the district to be selected by each such board or body; two members of the regional board of education, to be selected by such board, no more than one of whom may be a resident of a town making the application for the appointment of the committee; one member to be appointed by the state board of education, who shall not be a resident of any town within the district; the state treasurer or his designee, and one member to be appointed by the regional board of education, who shall be an expert in municipal bonding and financing and who shall not be a resident of any town within the district. The members shall receive no compensation for their services, but their expenses and those incurred by the regional board in connection with withdrawal or dissolution procedures shall be paid by the towns applying for withdrawal or dissolution. The appointee of the state board of education shall call the first meeting of the committee, and the committee shall organize and function in accordance with section 10-41. (1963, P.A. 389, S. 2; 1969, P.A. 698, S. 19.)

Sec. 10-63c. Report of committee. Within one year after its appointment, the committee shall prepare a written report of its recommendation concerning the advisability of a withdrawal or dissolution. If the committee recommends a withdrawal or dissolution, the report shall include: (1) A determination of the value of the net assets of the regional district, (2) an apportionment of the net assets to each member town on the basis of the ratio which the total average daily membership of such town since its membership in the regional district bears to the total average daily membership reported to the state board of education by the regional board of education up to and including the last such report, (3) a plan for settlement of any obligations and the transfer of property from the regional school district to the member town school districts, (4) a timetable for the orderly withdrawal or dissolution of the regional district and establishment of town boards of education if none exist, (5) the question to be determined by the referenda and (6) such other matters as the committee deems necessary. The provisions of sections 10-43 and 10-45, except as provided below, shall apply to the procedures for submission of the plan to the state board of education, action by such board, presentation of such plan to the member towns, action by such towns and the dissolution of the committee. The establishment of any new town board of education shall be in accordance with chapter 146. Upon an affirmative vote in each member town, the regional board of education and member towns shall cooperatively implement the plan for dissolution or withdrawal of a member town. (1963, P.A. 389, S. 3; 1969, P.A. 698, S. 20.)

Sec. 10-63d. Submission of final plan. Publication of notice. Section 10-63d is repealed. (1963, P.A. 389, S. 4; 1969, P.A. 698, S. 27.)

Sec. 10-63e. Special town meetings on proposal. Section 10-63e is repealed. (1963, P.A. 389, S. 5; 1969, P.A. 698, S. 27.)

Sec. 10-63f. Obligations not affected by action. Such withdrawal or dissolution shall not impair the obligation of the withdrawing town or the district to the holders of any bonds or other outstanding indebtedness issued prior to with-

drawal or dissolution under authority of this part. The regional board of education and the board of education of the town or towns involved may make agreements for the payment of money to or from the district and said towns in accordance with the final plan of withdrawal. (1963, P.A. 389, S. 6.)

Sec. 10-63g. Withdrawal and dissolution restricted. (a) No town shall be permitted to withdraw from a regional school district and no district shall be dissolved except in accordance with the provisions of sections 10-63a to 10-63f, inclusive, and no application for withdrawal or dissolution shall be made within three years after the formation of the district. (b) No town which has voted to apply for the institution of withdrawal or dissolution procedure as provided in sections 10-63a to 10-63f, inclusive, may again so apply within three years after the date of its last application. (1963, P.A. 389, S. 7, 8.)

Sec. 10-63h. Applicability to existing regional school districts. Notwithstanding the provisions of any general or special act or compact adopted by referendum to establish a regional school district, the provisions of this part shall apply to the regional school districts in existence on June 24, 1969, except as provided below. (a) Nothing in this part shall be construed to require an existing regional school district to change the composition of the membership of its board of education or their terms of office. (b) If the board consists of nine members, three from each member town, such members may be elected on a rotating basis each year for terms of three years. If any adjustments are necessary to achieve this system, the regional school district shall use the procedures provided in section 10-47c to make the necessary changes, provided the term of office of no incumbent shall be shortened. (c) Any such school district may change the representation of the member towns on the regional board or change the term of office of such members to four years in accordance with the procedures provided in section 10-47c. If the latter change is made, the member towns may elect their representatives on the regional board of education in accordance with subsection (b) or (c) of section 10-46 as determined by the legislative body of each town. (1969, P.A. 698, S. 21.)

Sec. 10-63i. Regional school district established before June 24, 1969. Any referendum establishing a regional school district before June 24, 1969, which by the terms of the question presented in such referendum established a regional school district to provide educational programs for kindergarten through grade twelve, shall be deemed to have empowered such district to provide for the member towns any program under the general supervision and control of the state board of education. In such cases, the town board of education in each member town is dissolved when the regional board of education assumes the direction of all such programs in the member towns, but in no case later than two years from the date of the referendum establishing such regional school district. (1969, P.A. 698, S. 22.)

§ 10-153d. Duty to negotiate

The town or regional board of education and the organization designated or elected as the exclusive representative for the appropriate unit, through designated officials or their representatives, shall have the duty to negotiate with respect to salaries and other conditions of employment about which either party wishes to negotiate, and such duty shall include the obligation of such board of education to meet at reasonable times, including meetings appropriately related to the budget-making process, and confer in good faith with respect to salaries and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession. The board of education of any town school district shall file forthwith a signed copy of any such contract with the town clerk. Any regional board of education shall file a signed copy of any such contract with the town clerk in each member town. Upon receipt of a signed copy of such contract the clerk of such town shall give public notice of such filing. The terms of such contract shall be binding on the legislative body of the town or regional school district, unless such body rejects such contract at a regular or special meeting called for such purpose within thirty days of the filing of the contract. Any regional board of education shall call a district meeting to consider such contract within such thirty-day period if the chief executive officer of any member town so requests in writing within fifteen days of the receipt of the signed copy of the contract by the town clerk

in such town. The body charged with making annual appropriations in any school district shall appropriate to the board of education whatever funds are required to implement the terms of any contract not rejected pursuant to this section. If the legislative body rejects such contract within such period, the parties shall renegotiate the terms of the contract in accordance with the procedure in this section. The town or regional board of education, and its representatives, agents and superintendents shall not interfere, restrain or coerce employees in derogation of the rights guaranteed by sections 10-153b to 10-153g, inclusive, and, in the absence of any recognition or certification as the exclusive representative as provided by section 10-153b, all organizations seeking to represent members of the teaching profession shall be accorded equal treatment with respect to access to teachers, principals, members of the board of education, records, mail boxes and school facilities and participation in discussions with respect to salaries and other conditions of employment. (1967, P.A. 752, § 3, eff. July 6, 1967; 1969, P.A. 811, § 3, eff. July 1 1969; 1973, P.A. 73-391.)

In the
United States Court of Appeals
for the Second Circuit

John E. Baker and Geraldine S. George,
Plaintiffs-Appellees,

vs.

Regional High School District No.5, et al
Defendants-Appellants,

Marion P. Crocco, George P. Davis, Jr.,
Jean Virshup, et al,
Defendants.

Affidavit
of
Service by Mail

STATE OF NEW YORK }
COUNTY OF New York } ss.:

Robert McElroy , being duly sworn,
deposes and says:

I am over the age of twenty-one years and reside at
32 Gramercy Park South , in the
Borough of Manhattan , City of New York. On the
22nd day of February, 1975 , at 2 o'clock PM ,

I served² copies of the Brief of Defendants-Appellants
and 1 copy of the Joint Appendix

in the above-entitled action on:

Ralph G. Elliot, Esq.
Alcorn Bakewell & Smith
One American Row
Hartford, Connecticut 06103

Gerald P. Dwyer, Esq.
246 Church Street
New Haven, Connecticut 06511

William J. Cousins
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Charles L. Flynn, Esq.
P.O. Box 799
New Haven, Connecticut 06503

~~the attorney xxx for the~~

in the said action, by depositing said copies, securely wrapped, properly addressed, and postage fully prepaid, in a post office box regularly maintained by the U. S. Government in the post office at 90 Church Street, in the Borough of Manhattan, City of New York.

Robert M. Troy

Sworn to before me this
22nd day of February, 1975 }

Michael J. Hoops

MICHAEL J. HOOPS
Notary Public, State of New York
No. 304303056
Qualified in Nassau County
Commission Expires March 30, 1975